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Government
Publications

Bill 1

Government Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

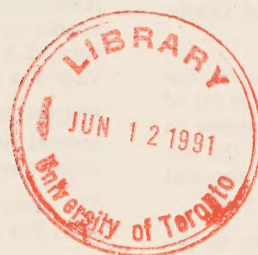
39 ELIZABETH II, 1990

Bill 1

An Act to amend the Retail Sales Tax Act

The Hon. S. Wark-Martyn

Minister of Revenue



1st Reading November 20th, 1990

2nd Reading

3rd Reading

Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the Government's policy not to have purchasers pay retail sales tax on top of the proposed Goods and Services Tax as well as the proposals contained in the Budget of April 24th, 1990. It also contains administrative amendments required to parallel similar provisions on the proposed Goods and Services Tax legislation.

SECTION 1. The amendment to paragraph 4 of section 1 of the Act ensures that the proposed Goods and Services Tax will be excluded from the calculation of the fair value on which retail sales tax is payable.

SECTION 2. The amendments in this section and sections 9, 10 and 14 are made for administrative purposes to parallel similar provisions in the proposed Goods and Services Tax legislation.

Subsection 1. This provision increases the time within which an application for refund of tax paid in error by a purchaser under the Act may be made from three years to four years from the date of payment.

Subsection 2. This amendment is consequential to the one provided in subsection (1).

Subsection 3. This provision increases the time within which a vendor can make a refund of tax to a purchaser from three years to four years from the date of the sale transaction.

SECTION 3. This amendment repeals section 2a of the Act which authorizes the Minister to pay a rebate of tax paid on tangible personal property purchased in Ontario and taken outside the province for permanent use outside Ontario, and a rebate of tax paid on transient accommodation by a person not resident in Ontario.

Subsection 15 (2) of the Bill will amend subsection 45 (3) of the Act to enable the Minister to make regulations providing for both types of rebates. The provision of these tourist rebates by regulation will provide the Minister with flexibility in prescribing terms and conditions of rebates similar to those provided for rebates to be made under the proposed Goods and Services Tax legislation.

SECTION 4.—Subsection 1. This amendment removes the restriction that the tire tax imposed under subsection 2b (1) of the Act in respect to rentals of tangible personal property to which the tire is attached or in connection with which the tire is supplied is only payable where rentals of tangible personal property have been made for a term of seven days or more.

Subsection 2. This amendment will provide authority to the Minister to prescribe by regulation an apportionment of the tire tax payable under subsection 2b (1) of the Act amongst all purchasers who lease for a period of less than thirty days the tangible personal property that a new pneumatic tire has been attached to or in connection with which the tire has been supplied.

SECTION 5. This amendment removes the requirement for the tax exemption available to manufacturers or producers of tangible personal property under paragraph 45 of subsection 5 (1) of the Act that the production machinery or equipment be described in Part XIII of Schedule III to the *Excise Tax Act* (Canada). That Schedule provides a listing of the specific types of production machinery or equipment currently exempt from federal sales tax. With the removal of the federal sales tax and its replacement by a goods and services tax, the reference in the *Retail Sales Tax Act* to the Schedule in the federal statute will be removed.

The amendment also enables the Minister to prescribe by regulation the types of machinery, equipment and processing

materials that can be purchased tax exempt under paragraph 45 of subsection 5 (1) of the Act.

SECTION 6. This amendment, effective the 1st day of April, 1991, will increase the compensation afforded to vendors for collecting and remitting the tax due under the Act from 4 per cent of the tax collected in the twelve-month period with a maximum of \$1,000 per annum to 5 per cent of the tax collected with a maximum of \$1,500 per annum. The maximum compensation for the 1990-91 year is increased by \$100 to a maximum of \$1,100 payable in 1991.

SECTION 7. This amendment clarifies that every vendor of taxable services is required to keep, in addition to records of all purchases and sales of tangible personal property, records of all purchases and sales of taxable services made by that vendor, whether for consumption or use or for resale.

SECTION 8. This re-enactment of section 15 of the Act brings the provisions governing confidentiality of taxpayer information into line with the current provisions of other taxing statutes administered by the Minister of Revenue. The amendment creates an offence for breaching the confidentiality section which provides for a maximum court fine upon conviction of \$2,000.

SECTION 9. This amendment increases the time within which the Minister can assess the tax payable by a purchaser from three years to four years from the date the tax becomes payable.

SECTION 10. This amendment increases the time within which the Minister can assess a penalty against a vendor for non-collection of tax from three years to four years from the date the tax should have been collected.

SECTION 11. This re-enactment of section 32 of the Act provides for the compounding of interest daily or as otherwise prescribed by the Minister on all amounts owing under the Act. This amendment will parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 12. This re-enactment of section 33 of the Act provides for the compounding of interest daily or as otherwise prescribed by the Minister on all overpayments made by a vendor or purchaser under the Act. This amendment will also parallel a similar provision in the proposed Goods and Services Tax legislation.

SECTION 13. This amendment provides for the joint and several liability of directors of a corporation for amounts owing and unpaid by the corporation under the Act.

The amendment is parallel to the proposed Goods and Services Tax legislation.

SECTION 14. This amendment increases from three to four years the period which the Minister can consider for the purposes of issuing a certificate of the amount of tax not collected for use in a prosecution under subsection 41 (2) of the Act.

SECTION 15.—Subsection 1. This amendment provides a specific authority for the Lieutenant Governor in Council to make a regulation prescribing circumstances and situations in which no tax is payable upon a transfer of tangible personal property between related persons.

Subsection 2. This amendment authorizes the Minister to make regulations providing for,

- (a) a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made; and
- (b) a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of

The amendments in the sections of the Bill listed in subsection 16 (2) relate to the proposed Goods and Services Tax. The intent is that these sections will not come into force until the Goods and Services Tax becomes law in Canada, but upon that happening the listed sections will be effective as of the 1st day of January, 1991.

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1 and amended by 1989, chapter 38, section 1, is repealed and the following substituted:

- (ba) the tax imposed pursuant to any provision of the *Excise Tax Act* (Canada), except the tax imposed by Part IX of that Act, or the *Excise Act* (Canada) in respect of the tangible personal property or the taxable service or the sale or acquisition of either of them.

2.—(1) Subsection 2 (9) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1 and 1983, chapter 27, section 2, is repealed and the following substituted:

(9) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount.

(9a) Only one application may be made under subsection (9) in respect of the same amount.

(9b) If the amount that is the subject of an application under subsection (9) was paid in the course of performing a contract and was repaid by another party to the contract, the amount may be refunded to the other party.

(2) Subsection 2 (11) of the Act is amended by striking out “three” in the first line, in the eighth line and in the ninth line and substituting in each instance “four”.

(3) Subsection 2 (12) of the Act is amended by striking out “three” in the fifth line and substituting “four”.

3. Section 2a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 1, section 2, is repealed.

4.—(1) Subclause 2b (3) (b) (ii) of the Act, as enacted by the Statutes of Ontario,

1989, chapter 38, section 3, is amended by striking out “for a term of at least seven days” in the first and second lines.

(2) Subsection 2b (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by adding the following clause:

- (d) despite clause (b), where the tangible personal property referred to in subclause (b) (ii) is ordinarily leased to different purchasers, each of whom will lease the tangible personal property for a period of less than thirty days, the tax imposed under subsection 2b (1) shall be apportioned among all purchasers who lease the tangible personal property during the period that a new pneumatic tire is attached thereto or in connection with which the tire has been supplied, in such manner as may be prescribed by the Minister.

5. Paragraph 45 of subsection 5 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 27, section 4, is repealed and the following substituted:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by the manufacturer or producer of either,

- (a) goods for manufacture or production by the manufacturer or producer or for the manufacture or production of others, or
- (b) manufacturing or production processes for use by the manufacturer or producer or the use of others,

if the machinery, equipment or processing materials are prescribed by the Minister, but the exemption conferred by this paragraph does not apply to any machinery or equipment used in any manner, process, industry, enter-

Application
for refund

Limitation

Refund to
contracting
party

prise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

6.—(1) Subsection 12 (1) of the Act is repealed and the following substituted:

(1) For each twelve-month period during which tax is collected commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3, the lesser of,

(a) \$1,500; or

(b) the aggregate of,

(i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

(ii) \$20 for each return with respect to tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and

(iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

(2) Section 12 of the Act is amended by adding the following subsection:

(1a) There may be paid to each vendor holding a valid and subsisting permit issued under section 3 for the twelve-month period during which tax was collected commencing on the 1st day of April, 1990 and ending on the 31st day of March, 1991, the lesser of,

(a) \$1,100; or

(b) the aggregate of,

(i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

(ii) \$20 for each return with respect to the tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and

(iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

7. Subsection 14 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is repealed and the following substituted:

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act.

Records of vendors of taxable services

8. Section 15 of the Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 8, is repealed and the following substituted:

15.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

Confidentiality

(a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

Testimony

(a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or

(b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Compensation to vendors

Transitional

Exception

(3) Subsections (1) and (2) do not apply in respect of,

- (a) criminal proceedings under any Act of the Parliament of Canada;
- (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or
- (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act.

Communi-
cation

(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,

- (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and
- (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Reciprocal
communi-
cation

(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.

Use of
information

(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.

Idem

(7) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to,

- (a) the person from whom the information, record or thing was obtained; or
- (b) any person,
 - (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or
 - (ii) by whom an amount payable under this Act is payable or has been paid; or

(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.

Information

(8) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,

- (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and
- (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty.

Tax policy

(9) The Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.

Offence

(10) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

9. Subsection 16 (3) of the Act is amended by striking out "three" in the second line and substituting "four".

10. Subsection 17 (4) of the Act is amended by striking out "three" in the third line and in the twelfth line and substituting in each instance "four".

11. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 11, is repealed and the following substituted:

Interest

32.—(1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Treasurer at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister.

Calculation

(2) The amount of the debt payable by a person under this Act at a particular date is the amount by which,

- (a) the aggregate of,
- (i) all tax under this Act collectable by the person as a vendor or payable by the person as a purchaser before that date,

- (ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and
- (iii) the total of all amounts of interest charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted or paid by the person under this Act prior to that date, and
- (ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date.

Compounding

(3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid.

12. Section 33 of the Act, as amended by the Statutes of Ontario, 1986, chapter 1, section 11, is repealed and the following substituted:

Overpayment

33. If an amount in respect of an overpayment is refunded or applied on other liability or if by a decision of the Minister under section 22 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed in a notice of assessment under section 16, 16a or 17 to which objection was made or from which appeal was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid or applied from the date the overpayment arose to the date of refund or application on other liability, unless the amount of interest is less than \$1, in which case no interest shall be paid or applied under this section.

13. The Act is amended by adding the following section:

Directors

40a.—(1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

(a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 35 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;

(b) the corporation has commenced liquidation or dissolution proceedings; or has been dissolved, or has lost control or possession of its property in proceedings described in subsection 20 (2), the amount of the corporation's liability described under subsection (1) has been proven or, in respect of proceedings described in subsection 20 (2), a claim for the amount has been made within six months after the earlier of the date of the commencement of the proceedings and the date of dissolution, or in the case of proceedings described in subsection 20 (2), the date when the remaining property of the corporation has been realized and the proceeds distributed; or

(c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Prudent director

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

Assessment

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation.

Time limit

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Execution

(7) Where a director of a corporation pays an amount in respect of a corporation's lia-

Idem

bility described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 20 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff of the county or district in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment.

Allocation by
Minister

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under section 2 including any penalty and interest relating thereto.

14. Subsection 41 (3) of the Act is amended by striking out "three" in the sixth line and substituting "four".

15.—(1) Subsection 45 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, 1983, chapter 27, section 16 and 1986, chapter 1, section 13, is further amended by adding the following clause:

- (l) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons.

(2) Subsection 45 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16, 1986, chapter 66, section 12 and 1989, chapter 38, section 7, is further amended by adding the following clauses:

- (o) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
- (p) providing for a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate or partial rebate may be made.

16.—(1) Except as provided in subsection (2), this Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 2, 3, 5, 6, 9, 10, 11, 12, 13 and 14 and subsection 15 (2),

Commence-
ment and
application

- (a) come into force on the day Bill C-62 (an Act to amend the *Excise Tax Act* (Canada) and certain other Acts) passed on the 10th day of April, 1990 by the House of Commons of Canada receives Royal Assent; and
- (b) apply in respect of sales made or prices of admission paid, or both, on or after the 1st day of January, 1991.

17. The short title of this Act is the *Retail Sales Tax Amendment Act, 1990*.

Short title

Bill 1

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 1

*(Chapter 20
Statutes of Ontario, 1990)*

An Act to amend the Retail Sales Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue



1st Reading	November 20th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1 and amended by 1989, chapter 38, section 1, is repealed and the following substituted:

(ba) the tax imposed pursuant to any provision of the *Excise Tax Act* (Canada), except the tax imposed by Part IX of that Act, or the *Excise Act* (Canada) in respect of the tangible personal property or the taxable service or the sale or acquisition of either of them.

2.—(1) Subsection 2 (9) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 1 and 1983, chapter 27, section 2, is repealed and the following substituted:

(9) An amount paid under this Act as tax that is not payable as tax and that was not paid to discharge liability under an assessment made under this Act shall be refunded if application for the refund is made to the Minister within four years after the date of payment of the amount.

(9a) Only one application may be made under subsection (9) in respect of the same amount.

(9b) If the amount that is the subject of an application under subsection (9) was paid in the course of performing a contract and was repaid by another party to the contract, the amount may be refunded to the other party.

(2) Subsection 2 (11) of the Act is amended by striking out “three” in the first line, in the eighth line and in the ninth line and substituting in each instance “four”.

(3) Subsection 2 (12) of the Act is amended by striking out “three” in the fifth line and substituting “four”.

3. Section 2a of the Act, as enacted by the Statutes of Ontario, 1986, chapter 1, section 2, is repealed.

4.—(1) Subclause 2b (3) (b) (ii) of the Act, as enacted by the Statutes of Ontario,

1989, chapter 38, section 3, is amended by striking out “for a term of at least seven days” in the first and second lines.

(2) Subsection 2b (3) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 38, section 3, is amended by adding the following clause:

(d) despite clause (b), where the tangible personal property referred to in subclause (b) (ii) is ordinarily leased to different purchasers, each of whom will lease the tangible personal property for a period of less than thirty days, the tax imposed under subsection 2b (1) shall be apportioned among all purchasers who lease the tangible personal property during the period that a new pneumatic tire is attached thereto or in connection with which the tire has been supplied, in such manner as may be prescribed by the Minister.

5. Paragraph 45 of subsection 5 (1) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 27, section 4, is repealed and the following substituted:

45. machinery, equipment or processing materials purchased for the use of a manufacturer, or for the use of a producer, to be used directly in the manufacture or production of tangible personal property or directly in, and exclusively for, the research or development by the manufacturer or producer of either,

(a) goods for manufacture or production by the manufacturer or producer or for the manufacture or production of others, or

(b) manufacturing or production processes for use by the manufacturer or producer or the use of others,

if the machinery, equipment or processing materials are prescribed by the Minister, but the exemption conferred by this paragraph does not apply to any machinery or equipment used in any manner, process, industry, enter-

Application
for refund

Limitation

Refund to
contracting
party

prise or by any person prescribed by the Minister as not entitled to the exemption conferred by this paragraph.

6.—(1) Subsection 12 (1) of the Act is repealed and the following substituted:

(1) For each twelve-month period during which tax is collected commencing on the 1st day of April, there may be paid to each vendor holding a valid and subsisting permit issued under section 3, the lesser of,

- (a) \$1,500; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,
 - (ii) \$20 for each return with respect to tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and
 - (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct the compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

(2) Section 12 of the Act is amended by adding the following subsection:

(1a) There may be paid to each vendor holding a valid and subsisting permit issued under section 3 for the twelve-month period during which tax was collected commencing on the 1st day of April, 1990 and ending on the 31st day of March, 1991, the lesser of,

- (a) \$1,100; or
- (b) the aggregate of,
 - (i) 5 per cent of the tax collected by the vendor in the period and shown in a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected is \$400 or more,

- (ii) \$20 for each return with respect to the tax collected by the vendor in the period that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected exceeds \$20 and is less than \$400, and

- (iii) the tax collected by the vendor in the period and shown on a return that is made in accordance with this Act and the regulations and in which the tax shown to have been so collected does not exceed \$20,

as compensation for the vendor's services in collecting and remitting the tax imposed by this Act and the vendor may deduct such compensation from the amount otherwise to be remitted to the Treasurer in accordance with section 11.

7. Subsection 14 (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 7, is repealed and the following substituted:

(2) Every vendor of taxable services shall keep records of all purchases and sales made by the vendor of tangible personal property, and records of all purchases and sales made by the vendor of taxable services, whether for consumption, use or resale, and any failure to do so constitutes an offence under this Act.

8. Section 15 of the Act, as amended by the Statutes of Ontario, 1986, chapter 66, section 8, is repealed and the following substituted:

15.—(1) Except as authorized by this section, no person employed by the Government of Ontario shall,

- (a) knowingly communicate or knowingly allow to be communicated to any person any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) knowingly allow any person to inspect or to have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

(2) No person employed by the Government of Ontario shall be required, in connection with any legal proceedings,

- (a) to give evidence relating to any information obtained by or on behalf of the Minister for the purposes of this Act; or
- (b) to produce any record or thing obtained by or on behalf of the Minister for the purposes of this Act.

Compensation to vendors

Records of vendors of taxable services

Confidentiality

Testimony

Transitional

Exception	<p>(3) Subsections (1) and (2) do not apply in respect of,</p> <ul style="list-style-type: none"> (a) criminal proceedings under any Act of the Parliament of Canada; (b) proceedings in respect of the trial of any person for an offence under an Act of the Legislature; or (c) proceedings relating to the administration or enforcement of this Act or the collection or assessment of tax under this Act. 	<p>(c) the legal representative of a person mentioned in clause (a) or (b) or the agent of the person authorized in writing in that behalf.</p>	
Communication	<p>(4) A person employed by the Government of Ontario may, in the course of duties in connection with the administration or enforcement of this Act,</p> <ul style="list-style-type: none"> (a) communicate or allow to be communicated to another person employed by the Government of Ontario in the administration or enforcement of any law, information obtained by or on behalf of the Minister for the purposes of this Act; and (b) allow another person employed by the Government of Ontario in the administration or enforcement of any law, to inspect or have access to any record or thing obtained by or on behalf of the Minister for the purposes of this Act. 	<p>(8) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to any person employed by any government if,</p> <ul style="list-style-type: none"> (a) the information, record or thing obtained by that government for the purpose of any Act that imposes a tax or duty are communicated or furnished on a reciprocal basis to the Minister; and (b) the information, record or thing will not be used for any purpose other than the administration or enforcement of a law that provides for the imposition of a tax or duty. 	Information
Reciprocal communication	<p>(5) A person who receives information or obtains access to any record or thing under subsection (4) has a duty to communicate or furnish to the Minister on a reciprocal basis any information, record or thing obtained by the person that affects the administration or enforcement of this Act.</p>	<p>(9) The Minister may communicate or allow to be communicated to an official of the Ministry of Treasury and Economics, solely for the purpose of evaluating and formulating tax policy, information obtained under this Act.</p>	Tax policy
Use of information	<p>(6) Any information, record or thing communicated or furnished under this section may be used only for the administration or enforcement of this Act or an Act that is administered or enforced by the person receiving the information, record or thing.</p>	<p>(10) Every person who contravenes any provision of this section is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.</p>	Offence
Idem	<p>(7) The Minister may permit information or a copy of any record or thing obtained by or on behalf of the Minister for the purposes of this Act to be given to,</p> <ul style="list-style-type: none"> (a) the person from whom the information, record or thing was obtained; or (b) any person, <ul style="list-style-type: none"> (i) for the purpose of an objection or appeal that has been or may be taken by the person under this Act arising out of an assessment of tax under this Act in connection with which the information, record or thing was obtained, or (ii) by whom an amount payable under this Act is payable or has been paid; or 	<p>9. Subsection 16 (3) of the Act is amended by striking out “three” in the second line and substituting “four”.</p>	
		<p>10. Subsection 17 (4) of the Act is amended by striking out “three” in the third line and in the twelfth line and substituting in each instance “four”.</p>	
		<p>11. Section 32 of the Act, as amended by the Statutes of Ontario, 1983, chapter 27, section 11, is repealed and the following substituted:</p>	
		<p>32.—(1) If on a particular date a debt as calculated under subsection (2) is payable by any person, the person shall be charged interest payable to the Treasurer at the prescribed rate and calculated in the prescribed manner on the amount of the debt from that date to the date the amount is received by the Minister.</p>	Interest
		<p>(2) The amount of the debt payable by a person under this Act at a particular date is the amount by which,</p>	Calculation
		<ul style="list-style-type: none"> (a) the aggregate of, (i) all tax under this Act collectable by the person as a vendor or payable by the person as a purchaser before that date, 	

- (ii) all amounts or penalties or both assessed under this Act against the person at any time before that date, and
- (iii) the total of all amounts of interest charged under this section against the person in respect of a period of time ending before that date,

exceeds,

(b) the aggregate of,

- (i) the amount of all taxes remitted or paid by the person under this Act prior to that date, and
- (ii) the total of all amounts of interest credited to the person in respect of a period of time ending before that date.

Compounding

(3) The interest under subsection (1) shall be computed and compounded daily or as otherwise prescribed by the Minister to the date on which it is paid.

12. Section 33 of the Act, as amended by the Statutes of Ontario, 1986, chapter 1, section 11, is repealed and the following substituted:

Overpayment

33. If an amount in respect of an overpayment is refunded or applied on other liability or if by a decision of the Minister under section 22 or by a decision of a court, it is finally determined that the tax payable under this Act is less than the amount assessed in a notice of assessment under section 16, 16a or 17 to which objection was made or from which appeal was taken and the decision makes it appear that there has been an overpayment of tax, interest at the rate prescribed, computed and compounded daily, or as otherwise prescribed by the Minister, shall be paid or applied from the date the overpayment arose to the date of refund or application on other liability, unless the amount of interest is less than \$1, in which case no interest shall be paid or applied under this section.

13. The Act is amended by adding the following section:

Directors

40a.—(1) Where a corporation has failed to collect tax or has collected tax and failed to remit the tax or has failed to pay any interest or penalty relating thereto, the directors of the corporation at the time the corporation was required to collect or remit the taxes or to pay the interest or penalty relating thereto, are jointly and severally liable, together with the corporation to pay such amounts.

Exception

(2) A director of a corporation is not liable under subsection (1) unless,

- (a) a warrant of execution for the amount of the corporation's liability as described in subsection (1) has been issued under clause 35 (1) (b) and directed to the sheriff of the county or district in which any property of the corporation is located or situate and the warrant has been returned by the sheriff unsatisfied in whole or in part;
- (b) the corporation has commenced liquidation or dissolution proceedings, or has been dissolved, or has lost control or possession of its property in proceedings described in subsection 20 (2), the amount of the corporation's liability described under subsection (1) has been proven or, in respect of proceedings described in subsection 20 (2), a claim for the amount has been made within six months after the earlier of the date of the commencement of the proceedings and the date of dissolution, or in the case of proceedings described in subsection 20 (2), the date when the remaining property of the corporation has been realized and the proceeds distributed; or
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within six months after the date of the assignment or receiving order.

(3) A director of a corporation is not liable for a failure described under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Prudent director

(4) The Minister may assess any person for any amount payable by the person under this section and, where the Minister sends a notice of assessment, the sections of this Act respecting assessments, objections and appeals apply with such modifications as the circumstances require.

Assessment

(5) Any assessment under subsection (4) of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person last ceased to be a director of the corporation.

Time limit

(6) Where execution referred to in clause (2) (a) has been issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Execution

(7) Where a director of a corporation pays an amount in respect of a corporation's lia-

Idem

bility described in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings or in respect of which a claim has been made in proceedings described in subsection 20 (2), the director is entitled to any preference that Her Majesty in right of Ontario would have been entitled to had the amount not been so paid and, where a warrant of execution has been issued and directed to the sheriff of the county or district in which any property of the corporation is located or situate, the director is entitled to an assignment of the warrant of execution to the extent of the director's payment, and the Minister is empowered to make the assignment.

Allocation by
Minister

(8) For the purposes of this section, the Minister may apply any payment or payments made by or on behalf of the corporation under this Act to any of the liabilities described in subsection (1) including penalties and interest relating thereto and any liability for tax payable by the corporation under section 2 including any penalty and interest relating thereto.

14. Subsection 41 (3) of the Act is amended by striking out "three" in the sixth line and substituting "four".

15.—(1) Subsection 45 (2) of the Act, as amended by the Statutes of Ontario, 1981, chapter 38, section 4, 1983, chapter 27, section 16 and 1986, chapter 1, section 13, is further amended by adding the following clause:

- (1) prescribing circumstances or situations in which no tax is payable upon a transfer of tangible personal property between related persons.

(2) Subsection 45 (3) of the Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16, 1986, chapter 66, section 12 and 1989, chapter 38, section 7, is further amended by adding the following clauses:

- (o) providing for a rebate of tax paid on tangible personal property purchased in Ontario and taken outside Ontario to be used permanently outside Ontario and prescribing the terms and conditions under which the rebate may be made;
- (p) providing for a rebate or partial rebate of the tax paid on transient accommodation by a person who is not a resident of Ontario and prescribing the terms and conditions under which the rebate or partial rebate may be made.

16.—(1) Except as provided in subsection (2), this Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Sections 1, 2, 3, 5, 6, 9, 10, 11, 12, 13 and 14 and subsection 15 (2),

Commence-
ment and
application

- (a) come into force on the day Bill C-62 (an Act to amend the *Excise Tax Act* (Canada) and certain other Acts) passed on the 10th day of April, 1990 by the House of Commons of Canada receives Royal Assent; and
- (b) apply in respect of sales made or prices of admission paid, or both, on or after the 1st day of January, 1991.

17. The short title of this Act is the *Retail Sales Tax Amendment Act, 1990*.

Short title

Bill 2

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 2

**An Act to amend the
Regional Municipality of Ottawa-Carleton Act and
the Municipal Elections Act respecting the
Election of the Chairman of the Regional Council**

Mr. Chiarelli



1st Reading November 21st, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chairman of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act respecting the Election of the Chairman of the Regional Council

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following sections:

Election of
chairman

4a.—(1) The chairman shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

Qualifications
of chairman

(2) A person is qualified to hold office as chairman if he or she is entitled to be an elector in the regular election and is not disqualified to hold the office by this or any other Act.

Returning
officer

(3) The clerk of the area municipality having the greatest number of electors is the returning officer for the election.

Nominations

(4) Nominations for the office of chairman shall be filed with the clerk of the area municipality having the greatest number of electors, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

Results of
vote

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of the area municipality having the greatest number of electors, who shall prepare the final summary and certify it under the seal of the area municipality to the clerk of the Regional Council.

Announce-
ment of
results

(6) The clerk of the Regional Corporation shall announce the vote.

Costs of
election

(7) The Regional Corporation shall reimburse the area municipalities for the costs incurred by them in relation to the election of the chairman.

(8) The Lieutenant Governor in Council may by regulation prescribe procedures and forms respecting the election of the chairman.

Regulations

4b.—(1) Parts II and III of the *Municipal Elections Act* apply to an election under section 4a as though the candidates were candidates in an election for the office of head of council of the area municipality having the greatest number of electors.

Application

(2) The clerk of the Regional Corporation shall make a copy of Parts II and III of the *Municipal Elections Act* available for inspection by the public at the clerk's office.

Idem

(3) The Regional Corporation may pass a by-law providing for lower limits on the campaign expenses that candidates for the office of chairman may incur and the contributions that any individual, corporation or trade union may make to candidates than are set out in the *Municipal Elections Act*.

Regional
Corporation
may pass
by-laws

(4) If a by-law is passed under subsection (3), the provisions of the *Municipal Elections Act* respecting campaign expenses and contributions to candidates shall be applied as if the lower limits set out in the by-law were specified in that Act.

Idem

3. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chairman, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor.

Vacancy in
office of
chairman

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member's seat thereby becomes vacant.

Vacancy
filled by
member of
council of
area municipi-
ality

4.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is

further amended by adding the following subclause:

- (vi) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by striking out "or" in subclause (v), by adding "or" at the end of subclause (vi) and by adding the following subclause:

- (vii) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

- 2b. In The Regional Municipality of Ottawa-Carleton, the elector is enti-

tled to vote once only for one candidate for chairman of the Regional Council.

(4) Section 49 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 10, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is further amended by adding the following subsection:

(1b) Notwithstanding subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in The Regional Municipality of Ottawa-Carleton shall not vote in more than one of the polling subdivisions in an election for the office of chairman of the Regional Council.

One vote for chairman of regional council

5. This Act comes into force on the day it receives Royal Assent.

Commencement

6. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1990.*

Short title

ON
3
56

Bill 3

An Act to provide for the Protection of Financial Consumers

Mr. Chiarelli



1st Reading November 22nd, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to provide greater protection than now exists for consumers who receive advice from financial planners or who invest in certain financial products offered by or through financial planners, agents and suppliers.

The Bill imposes a number of duties on financial planners, agents and suppliers, including a duty to provide suitable advice or a suitable product in light of certain information provided by a consumer, a duty to make certain disclosures and provide certain information to a consumer and a duty to use plain language in certain documents provided to a consumer. Certain business practices are prohibited, as are uses of financial information provided by a consumer that are not authorized by the consumer.

The Bill also provides that consumers have certain responsibilities, and states that the failure of a consumer to fulfil a responsibility, as well as the failure of a financial planner, agent or supplier to carry out a duty, may be taken into account in a claim for damages under this Act. The consumer and the financial planner, agent or supplier must attempt to resolve such claims between themselves, but if they are unable to do so, the claim may be arbitrated or the consumer may instead apply to court to recover damages. Consumer organizations are also given authority to start court proceedings.

Financial planners must be licensed under the Bill, which also authorizes the making of regulations respecting a licensing scheme. Authority is also given to make regulations allowing consumers to cancel agreements for the purchase of certain financial products within a specified period.

The Bill provides for the appointment of a Director and investigators to administer and enforce its provisions and sets out certain investigatory powers, as well as authorizing the establishment of regulatory boards. The Director may issue compliance orders against a financial planner, agent or supplier or may apply to court for such order against a financial planner, agent or supplier as the court considers appropriate; the Director may also apply to the court for an order preventing dispersal of or dealing with the assets of a financial planner, agent or supplier. The Bill creates certain offences involving contraventions of its provisions.

An Act to provide for the Protection of Financial Consumers

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“agent” means a person who sells or offers to sell to consumers named financial products not of that person’s own issue;

“commission” means compensation, reward or benefit, but does not include salary;

“consumer” means an individual;

“Director” means the individual appointed as the Director under this Act;

“financial planner” means any person who offers financial planning services to consumers;

“financial planning” means preparing a plan to manage a consumer’s financial affairs in whole or in part by reviewing, analyzing or organizing personal financial information, if done for the direct or indirect financial benefit of the person who prepared the plan or that of the person’s employer or principal;

“Minister” means the member of the Executive Council designated by the Lieutenant Governor in Council to administer this Act;

“mutual fund unit” means a security that entitles the holder to receive, on demand or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in a part of the net assets, including a separate fund or trust account, of the issuer of the security;

“named financial product” means,

- (a) life insurance as defined in the *Insurance Act*, except life insurance that does not provide for a cash surrender value,
- (b) an account on which interest is payable on cash balances by a government savings office, credit union, trust corporation, bank or securities dealer,
- (c) an investment, commonly known as an “investment certificate”, “guaranteed investment certificate” or “term deposit”, on which a specified rate of interest is paid or guaranteed,
- (d) an investment or proposed investment in a mortgage made through a financial planner,
- (e) shares, bonds or other securities of a similar nature, or
- (f) any other investment designated as a named financial product in the regulations;

“regulations” means the regulations made under this Act;

“supplier” means a person who sells or offers to sell to consumers named financial products of that person’s own issue, and includes the employees of a supplier.

PART I

PURPOSE AND APPLICATION

2. The purposes of this Act are,

Purposes of Act

- (a) to require suppliers, agents and financial planners to disclose to consumers important information about named financial products;
- (b) to inform consumers that they have responsibilities as well as rights when they invest in named financial products;
- (c) to set standards for financial planners;
- (d) to make remedies available so that disputes about named financial products can be resolved efficiently and effectively; and
- (e) to encourage the use of readily understandable language in the financial marketplace.

3.—(1) This Act and the regulations apply to, Application

- (a) advice that is given to a consumer by an agent, financial planner or supplier in relation to a named financial product if the advice is given in Ontario or if the financial planner is a resident of Ontario; and
- (b) a purchase of or investment in a named financial product by a consumer if the purchase or investment is made in Ontario or if the agent or supplier from, through or with whom the consumer made the purchase or investment is a resident of Ontario.

(2) The provisions of this Act and the regulations applicable to agents, suppliers and financial planners, respectively, apply to a person acting in the capacity of an agent, supplier or financial planner, as the case may be, even though the person may act in more than one capacity. Idem

(3) A person who practises as a barrister and solicitor or a public accountant and who does financial planning as an ancillary service shall not be considered to be a financial planner for purposes of this Act and the regulations. Exception

4. If there is a conflict between this Act and any other Act, this Act prevails to the extent of the conflict. This Act to prevail

No waiver of Act

5.—(1) No person may waive a requirement of this Act or the regulations.

Attempted waiver invalid

(2) Any attempt to waive a requirement of this Act or the regulations is invalid.

Contravention of one person does not excuse others

6.—(1) The failure of one person to comply with this Act or the regulations does not excuse any other person from complying with it.

Contravention does not invalidate agreement

(2) The failure of a person to comply with this Act or the regulations does not in itself invalidate a transaction involving a named financial product in which that person participated.

Other rights not affected

7. Nothing in this Act or the regulations shall be interpreted to limit any right or remedy a consumer may have under any other law.

PART II

RESPONSIBILITIES OF CONSUMERS

Consumer's responsibilities before investing

8. A consumer has the responsibility to do the following things before investing in a named financial product:

- 1. Provide to any agent, financial planner or supplier who gives the consumer advice about the product any information that the consumer knows or ought reasonably to know might have an effect on the advice that the agent, financial planner or supplier would give.
- 2. Become reasonably well-informed about the product.
- 3. Obtain and review information about the product.
- 4. Make a sensible decision about investing in the product.

Consumer's responsibility in the event of loss

9. If a consumer suffers a loss as a result of investing in a named financial product and believes that the loss was caused by a contravention of this Act or the regulations by an agent, financial planner or supplier, the consumer shall promptly try to minimize the loss and to come to an agreement with the agent, financial planner or supplier about who is responsible for the loss.

Effect of consumer's failure to fulfil responsibilities

10. Failure by a consumer to fulfil the responsibilities referred to in this Part may be considered in assessing or apportioning the consumer's damages in claims for loss under this Act.

PART III

DUTIES OF AGENTS, FINANCIAL PLANNERS AND SUPPLIERS

11. An agent, supplier or financial planner who is giving advice to a consumer about a named financial product or who is selling a named financial product shall give advice or sell a product that is suitable in light of any information provided by the consumer about why he or she needs advice or about what he or she hopes to achieve by purchasing or investing in a financial product.

Duty to provide suitable advice or product

12.—(1) Before a financial planner gives advice to a consumer, the financial planner shall advise the consumer,

Duty of financial planner before giving advice

- (a) whether the financial planner receives a commission for giving advice about or bringing about an investment by the consumer in a named financial product or any other financial product;
- (b) whether there is anything in the relationship that the financial planner has with an agent, a supplier or any other financial planner that could cause a conflict of interest in the financial planner's dealings with the consumer; and
- (c) of any other information prescribed by regulation.

(2) Before a financial planner does financial planning for a consumer, the financial planner shall advise the consumer of the cost to the consumer of the financial planner's services and any other information prescribed by regulation.

Duty of financial planner before planning

13.—(1) An agent or supplier who offers to sell a consumer a named financial product or a financial planner who provides advice to a consumer about a named financial product shall give the consumer the following information:

Duty to provide information about named financial products

- 1. The supplier's name and, on request, the supplier's business address.
- 2. If the consumer is dealing with an agent or financial planner or both, the name and business address of the agent or financial planner or both.
- 3. If there is an existing plan under which the consumer can be compensated for a loss relating to a named financial product, how the consumer can obtain information about the plan.
- 4. If there is a right to cancel an agreement about an investment in a named financial product, how and when the right can be exercised.
- 5. If the named financial product can be redeemed or surrendered before the

end of its term, the cost of and procedure for doing so.

6. If the person with whom the consumer is dealing will receive a commission in respect of an investment by the consumer, the fact that he or she will receive a commission.
7. If the named financial product is life insurance, the premium payable.
8. If the named financial product is a mutual fund, the cost of purchase, the commission and any other fees that are or will be payable by the consumer.
9. Any other information that a supplier, agent or financial planner is required by regulation to tell a consumer.
10. The fact that the consumer has the right to receive in writing any of the information required to be provided under this section.

Information in writing

(2) An agent, financial planner or supplier referred to in subsection (1) shall inform the consumer that he or she has a right to be given the information referred to in that subsection in writing.

Idem

(3) If the consumer requests that the information be given in writing, it must be so given within a reasonable time.

Duty to provide financial statements

14. If a supplier is required by law to make or as a general practice makes audited financial statements available to the public, the supplier must provide to a consumer, on request and without charge, a copy of the most recent audited financial statement of the supplier.

Duty to use plain language

15.—(1) The following documents must be in readily understandable language and form:

1. Application forms for consumers who wish to invest in named financial products.
2. Agreements setting out the terms of purchase or investment in named financial products.
3. Any information provided to a consumer in writing under subsection 13 (3).
4. Any other documents prescribed in the regulations.

Exception

(2) Subsection (1) does not apply to language in documents or forms of documents that are required by any other Act or a regulation made under any other Act.

Defence

(3) Proof that reasonable efforts have been made to comply with subsection (1) is a complete defence in a prosecution under sub-

section (1) or in a dispute about whether subsection (1) has been complied with.

16.—(1) If a consumer signs a document at the request of an agent, financial planner or supplier, the agent, financial planner or supplier shall inform the consumer that he or she is entitled to be given a copy.

Copies of documents

(2) If a consumer requests a copy of a document referred to in subsection (1), the person asking the consumer to sign the document shall provide a copy.

Idem

17. An agent, financial planner or supplier shall not,

Prohibited business practices

- (a) put undue pressure on a consumer to invest in named financial products;
- (b) take unfair advantage of a consumer;
- (c) make representations or conduct himself, herself or itself in a way that could mislead or deceive a consumer; or
- (d) withhold from a consumer information about named financial products or about a supplier, agent or financial planner if he, she or it knows or ought reasonably to know that the consumer might be misled by not having the information.

18. An agent shall not accept payment from a consumer for a named financial product unless it is a cheque, money order or other negotiable instrument payable to the supplier.

Payment for named financial products

19.—(1) Personal financial information given by a consumer to a supplier, agent or financial planner for the purpose of obtaining advice about or investing in named financial products can only be used for that purpose unless,

Use of personal financial information

- (a) the consumer specifically consents in writing to another use;
- (b) the consent is clearly identifiable by the consumer; and
- (c) the consent specifically states the information to be released, the purpose of the release and to whom the information may be released.

(2) An application by a consumer to purchase or invest in a named financial product must not be refused because the consumer refuses to provide his or her consent under subsection (1).

Application not to be refused

(3) Subsection (1) does not prevent an agent, financial planner or supplier from giving personal financial information given by a consumer to,

Exception

- (a) a credit grantor to determine the credit worthiness of that consumer;

- (b) a consumer reporting agency as defined in the *Consumer Reporting Act* to determine the credit worthiness of that consumer; or
- (c) another person as required by law.

Effect of failure to carry out duties

20. The failure by an agent, financial planner or supplier to carry out the duties imposed on an agent, financial planner or supplier by this Act is to be taken into account in assessing or apportioning damages in claims for loss under this Act and may be the subject of proceedings under Parts VI and VII.

PART IV

LICENSING OF FINANCIAL PLANNERS

Licensing of financial planners

21.—(1) No person shall engage in any financial planning to which this Act applies unless that person has been issued a licence to do so by the Director.

Exception

(2) The Director may in writing permit a person to engage in financial planning without a licence issued under this Act if the financial planning is carried on as part of an activity involving financial products in respect of which the person is licensed under some other Act.

Refusal or revocation of licence

(3) If the Director proposes to refuse to grant a licence or to revoke a licence, he or she shall advise the applicant or licensee of the proposal and of the right to make submissions concerning the proposal at a hearing.

Idem

(4) The Director shall hold a hearing if an applicant or licensee who has been advised by the Director under subsection (3) requests one.

PART V

CANCELLATION OF AGREEMENTS

Right to cancel agreement

22.—(1) The Lieutenant Governor in Council may make regulations allowing a consumer to cancel an agreement to purchase or invest in a named financial product within such period after the agreement is entered into as is specified in the regulations.

Idem

(2) Regulations made under subsection (1) may,

- (a) prescribe the named financial products in respect of which an agreement may be cancelled;
- (b) prescribe the particular circumstances in which an agreement may be cancelled;
- (c) prescribe the conditions under which an agreement may be cancelled.

PART VI

DISPUTE RESOLUTION

23.—(1) If a dispute arises between a consumer and an agent, financial planner or supplier about whether the consumer has suffered a loss because this Act and the regulations were not complied with, the parties to the dispute must attempt to resolve the dispute themselves before starting a court or arbitration proceeding.

Duty in event of dispute

(2) Every agreement between a consumer and an agent, financial planner or supplier about a named financial product and every agreement between a consumer and a financial planner about advice about a named financial product or any other financial product shall be deemed to include the arbitration clause set out in the Schedule to this Act.

Arbitration

(3) Subsection (2) does not apply if the agreement provides that if a dispute arises about whether the consumer suffered a loss because this Act or the regulations were not complied with and the consumer elects not to start a court proceeding, the parties shall arbitrate the dispute and that the *Arbitrations Act* will apply to the arbitration proceeding.

Exception

24.—(1) If the Director receives a notice to appoint an arbitrator under the arbitration clause referred to in subsection 23 (2) or an agreement referred to in subsection 23 (3), he or she shall appoint an arbitrator and advise the parties of the arbitrator's name within fourteen days of receiving the notice.

Arbitration proceeding

(2) The decision of the arbitrator is binding on the parties.

Decision is binding

(3) As soon as possible after making a decision, the arbitrator shall file a copy of it with the Director.

Decision to be filed

(4) The Director shall make a copy of the decision available for inspection by members of the public.

Inspection by public

(5) If a party to the arbitration requests that the decision be kept confidential, the Director may grant the request, deny it or make only a portion of the decision available for inspection.

Request that decision be kept confidential

25. If dispute arises about whether a consumer suffered a loss because this Act and the regulations were not complied with, the consumer may elect to apply to the court to recover damages instead of starting an arbitration proceeding.

Starting a court proceeding

26. A court or an arbitrator hearing a dispute shall consider,

Matters to be considered

- (a) whether each party to the dispute has complied with this Act and the regulations and, if not, why not;

- (b) the degree to which each party has failed to comply with this Act and the regulations;
- (c) the opportunity of the consumer to minimize the loss; and
- (d) any other factors that the court or the arbitrator considers appropriate.

Court proceeding by a consumer corporation

27.—(1) In this section, “consumer corporation” means a non-profit corporation that has as its primary objective the protection or advancement of the interests of consumers.

Idem

(2) A consumer corporation may start a court proceeding against an agent, financial planner or supplier whom it believes is contravening this Act or the regulations, whether or not it has an interest in or is affected by the subject-matter of the proceeding.

Security for costs

(3) If a proceeding is started under this section, the court may order the consumer corporation to give security for costs in an amount the court considers proper.

If consumer corporation successful

(4) If the court finds that the agent, financial planner or supplier is contravening this Act and the regulations or was contravening this Act and the regulations when the proceeding was started, it may,

- (a) declare that the supplier, agent or financial planner has contravened this Act or the regulations;
- (b) grant an injunction restraining the supplier, agent or financial planner from engaging in any activity that would contravene this Act or the regulations; and
- (c) award costs.

PART VII

ADMINISTRATION

Definition of “record”

28. In this Part, “record” includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the record is on paper or is in electronic, photographic or other form.

Appointment of Director

29.—(1) The Minister shall appoint a Director for the purpose of administering this Act and the regulations.

Appointment of investigators

(2) The Minister may appoint investigators for the purpose of determining whether this Act and the regulations are being complied with.

Certificate of appointment

(3) The Minister shall issue a certificate of appointment bearing the Minister’s signature or a facsimile of it to every investigator.

Production of certificate

(4) An investigator who is exercising any powers or performing any duties under this

Act shall produce his or her certificate of appointment upon request.

30.—(1) An investigator shall carry out the duties assigned to him or her by the Director.

Duties of investigators

(2) An investigator may carry out an investigation under this Act whether or not the investigator has any reason to believe that the person being investigated has contravened this Act and the regulations made under it.

Investigation may be carried out

(3) For the purpose of carrying out an investigation, an investigator may,

Powers of investigators

- (a) enter any place at any reasonable time;
- (b) require the production of any records or other things that may be relevant to the investigation;
- (c) inspect any records or other things referred to in clause (b); or
- (d) inquire into any matters that may be relevant to the investigation.

(4) Upon giving a receipt for them, an investigator may remove from a place any records or other things relevant to the investigation,

Power to remove things

- (a) to make copies of or extracts from them;
- (b) to examine or test them; or
- (c) to hold them as evidence.

(5) An investigator shall promptly return any records or other things removed under subsection (4) unless they are being held as evidence.

Return

(6) An investigator may call upon any expert he or she considers necessary to assist in carrying out an investigation.

Expert assistance

(7) An investigator shall not, except under the authority of a warrant issued under section 31,

Powers not to be exercised

- (a) use force to exercise any of his or her powers under this section; or
- (b) enter, or exercise any of his or her other powers under this section in, a place that is being used as a dwelling without the consent of the occupier.

31.—(1) With respect to a place that is not being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place and exercise any of his or her other powers under section 30 if satisfied by information upon oath that it is reasonably necessary for the investigator to do so in order to determine whether this Act and the regulations are being complied with.

Administrative warrant

Warrant if
contravention
suspected

(2) With respect to any place, whether or not it is being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place, exercise any of his or her other powers under section 30 and search the place for any records or other things relevant to an investigation if satisfied by information upon oath that there are reasonable grounds to believe that a person in the place has contravened or is about to contravene this Act or the regulations made under it or that there are in the place records or other things that will afford evidence of a contravention.

Return of
things
removed

(3) An investigator acting under a warrant shall promptly return any records or things removed from a place unless they are being held as evidence.

Execution
and expiry

(4) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires, which date shall not be later than thirty days after its issue.

Time of
execution

(5) A warrant shall be executed between the hours of 7 a.m. and 9 p.m., unless it provides otherwise.

Investigator
authorized by
warrant

- (6) A warrant authorizes the investigator,
- (a) to use whatever force is necessary to execute the warrant;
 - (b) to call on police officers as necessary to assist in executing the warrant;
 - (c) to call upon any expert he or she considers necessary to assist in executing the warrant; and
 - (d) to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

Extension of
time

(7) A justice of the peace may extend the date on which a warrant expires for a period of no more than thirty days before or after the warrant expires upon motion by the person named in it.

Search
without
warrant if
evidence
could be lost

32.—(1) Despite subsection 30 (7), an investigator may enter a place, whether or not it is being used as a dwelling, exercise any of his or her other powers under section 30 and search the place for any records or other things relevant to an investigation if the investigator believes on reasonable and probable grounds that there is sufficient evidence for the issue of a warrant but that evidence of a contravention of this Act or the regulations made under it could be destroyed, lost or removed before a warrant is obtained.

Idem

(2) Subsections 31 (3) and (6) apply with necessary modifications to an investigator acting under this section.

(3) An investigator who enters a place under this section and removes any records or other things shall appear before a justice of the peace as soon as is practicable and shall produce all records removed and, if requested by the justice, any other things removed.

Appearance
before justice

(4) A justice before whom an investigator appears under subsection (3) may by order detain any records or other things removed or direct them to be detained in the care of a person named in the order or direct them to be returned.

Idem

33. A copy of or extract from a record made as a result of an inspection is admissible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

Admissibility
of copies

34.—(1) No person shall,

Obstruction

- (a) obstruct an investigator who is exercising a power or performing a duty under this Act;
- (b) withhold or refuse permission for an investigator to enter any place that is not being used as a dwelling;
- (c) withhold or refuse to provide any information required by an investigator for the purposes of an inspection; or
- (d) withhold, refuse to produce or destroy any record or other thing required by an investigator for the purposes of an inspection.

(2) A person who is required to produce a record for an investigator shall, on request, provide whatever assistance is reasonably necessary, including using any data storage, processing or retrieval device or system to produce a record in readable form.

Person to
assist with
records

35.—(1) If the Director is of the opinion that an agent, financial planner or supplier is not complying with this Act or the regulations, he or she may invite the agent, financial planner or supplier to give a written undertaking.

Undertakings

(2) An undertaking may include any of the following commitments:

Content of
undertakings

1. To stop engaging in or change the practice described in the undertaking.
2. To provide compensation to any consumers who have incurred a loss.
3. To publicize the undertaking or the action being taken, to stop engaging in or change a practice.
4. To pay the costs of the Director's investigation and any costs associated with the undertaking.

5. Any other commitment that the Director and the supplier, agent or financial planner, as the case may be, agree on.

Undertaking is binding

(3) An undertaking is binding on the agent, financial planner or supplier who enters into it.

Public record of undertaking

(4) The Director shall keep a register of undertakings given under this section and shall make it available to the public for inspection.

Director's order

36.—(1) If the Director has reason to believe that an agent, financial planner or supplier is contravening this Act or the regulations, he or she may order the agent, financial planner or supplier to stop the contravention.

Information

(2) Information about the right to appeal a Director's order must be provided with the order.

Service

(3) The Director must serve a copy of the order on the person who is the subject of it either personally or by registered mail.

Appeal of Director's order

37.—(1) A person who is affected by an order of the Director made under section 36 may appeal the order to the Divisional Court within thirty days of being served.

Court may confirm, change or cancel order

(2) The court may confirm, change or cancel the order on any terms or conditions it considers appropriate.

Court may suspend order while appeal pending

(3) The court may, on motion by the appellant, suspend all or part of the operation of the order on any condition it considers appropriate pending the appeal.

Application to court for an order

38.—(1) If the Director has reason to believe that an agent, financial planner or supplier is contravening, has contravened or is about to contravene this Act or the regulations, or has not complied with an undertaking given under section 35 or an order made under section 36, he or she may apply to the court for an order against the agent, financial planner or supplier.

Contents of order

(2) In a proceeding under this section, the court may make any order it considers appropriate, taking into consideration,

- (a) the purposes of this Act and the regulations;
- (b) the responsibilities and rights of persons under this Act and the regulations;
- (c) the need to protect the public against unfair practices; and
- (d) the appropriateness of an award of punitive damages.

Definition

39.—(1) In this section, "supplier" does not include,

(a) a trust corporation or a loan corporation as defined in the *Loan and Trust Corporations Act, 1987*;

(b) a credit union as defined in the *Credit Unions and Caisses Populaires Act*;

(c) a bank as defined in the *Bank Act (Canada)*; or

(d) an insurer to which the *Insurance Act* applies.

(2) If an agent or supplier has been paid by a consumer for a named financial product, or a financial planner has been paid by a consumer for financial planning, the Director may apply to the court for an order under subsection (3) if he or she has reason to believe that the agent, supplier or financial planner,

Freeze order

(a) has absconded or is about to abscond from Ontario;

(b) has attempted to dispose of property or to remove any property from Ontario in order to avoid satisfying legal liabilities; or

(c) is misusing money or other assets provided by the consumer.

(3) If satisfied that there are reasonable and probable grounds to believe that an agent, supplier or financial planner has done or is about to do anything referred to in clause (2) (a), (b) or (c), the court may issue an order,

Idem

(a) prohibiting any person who has on deposit, who has control over, or who has for safekeeping, any asset of an agent, financial planner or supplier from dispersing or otherwise dealing with the asset except as approved by the court;

(b) appointing a trustee or receiver to take possession of and hold any asset of an agent, financial planner or supplier; or

(c) directing the agent, financial planner or supplier not to disperse or otherwise deal with any asset except as directed by the trustee or receiver or as approved by the court.

(4) The court may make an order under this section on any terms it considers appropriate.

Idem

(5) Any person who is affected by an order made under subsection (3) may, on notice to the Director, apply to the court to have the order changed or cancelled.

Application to change or cancel protection order

(6) The court may refuse the application or may change or cancel the order on any terms it considers appropriate.

Idem

PART VIII

OFFENCES AND PENALTIES

Offences **40.**—(1) A person is guilty of an offence who,

- (a) contravenes section 12, 13, 14, 15, 18, 19, 22 or 34;
- (b) contravenes a regulation made under clause 45 (m);
- (c) fails to comply with an undertaking given under section 35; or
- (d) fails to comply with a Director's order made under section 36.

Limitation (2) A prosecution under this section shall not be commenced more than two years after the commission of the offence.

Penalty for individuals convicted (3) An individual convicted of an offence under this section is liable to a fine not exceeding the greater of \$25,000 and five times the loss incurred by a consumer as a result of the offence.

Idem (4) An individual who fails to pay a fine imposed under subsection (3) is liable to imprisonment for not more than twelve months.

Penalty for corporations (5) A corporation convicted of an offence under this section is liable to a fine not exceeding the greater of \$200,000 and five times the loss incurred by a consumer as a result of the offence.

Liability of individuals for offence by corporation (6) Every director, employee, officer or other person who directs, authorizes, assents to, knowingly acquiesces in or knowingly participates in an offence committed by a corporation under this section, is also guilty of an offence and is liable to a fine not exceeding the greater of \$25,000 and five times the loss incurred by a consumer as a result of the offence.

PART IX

REGULATORY BOARDS

Regulatory boards **41.**—(1) The Lieutenant Governor in Council may establish regulatory boards.

Idem (2) A regulatory board is a corporation and consists of the members appointed by the Lieutenant Governor in Council.

Lieutenant Governor in Council may determine number of members, etc. (3) The Lieutenant Governor in Council may determine the number of members of a regulatory board and the terms of office of the members.

Board shall exercise delegated powers, etc. (4) A regulatory board shall exercise the powers, duties and functions delegated to it under section 44.

42.—(1) A regulatory board may make by-laws respecting,

By-laws of regulatory board

- (a) the conduct of the business and affairs of the board;
- (b) the calling of meetings of the members and conduct of business at those meetings;
- (c) the removal, functions, powers, duties, remuneration and benefits of members, officers and employees of the board;
- (d) the delegation to officers of the board, or any committee of it, any powers of the board required to manage the business and affairs of the board, except the power to make by-laws; and
- (e) the establishment, membership, duties and functions of special, standing and other committees.

(2) A by-law made by a regulatory board is not effective until it is approved by the Minister.

By-laws not to be effective without approval

(3) The *Regulations Act* does not apply to a by-law of a board.

Non-application

43. A regulatory board shall provide the Minister with any reports required by regulation.

Report

PART X

GENERAL

44.—(1) The Minister may, in writing and with or without conditions, assign to an individual or a regulatory board under this Act or any other Act or regulation any or all of the Director's powers, duties or functions under this Act.

Assignment of Director's duties by Minister

(2) With the approval of the Minister, the Director may, in writing and with or without conditions, delegate to a regulatory board under this Act or any other Act or regulation any or all of his or her powers, duties or functions under this Act.

Director may delegate

45. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) designating an investment as a named financial product;
- (b) exempting an agent, financial planner or supplier or any class of agent, financial planner or supplier from any provision of this Act and the regulations;
- (c) providing that this Act and the regulations do not apply to a named financial product or class of named financial product or a part of a named financial product;

- (d) prescribing information that a financial planner must provide to a consumer under section 12;
- (e) prescribing information that an agent, financial planner or supplier must tell a consumer under subsection 13 (1);
- (f) prescribing documents for the purpose of paragraph 4 of subsection 15 (1);
- (g) prescribing what is meant by "readily understandable language and form";
- (h) prescribing circumstances in which section 18 does not apply;
- (i) respecting the reports that a regulatory board must provide to the Minister;
- (j) prescribing conditions of eligibility for a financial planning licence, prescribing conditions on which a licence may be granted or revoked and prescribing licence fees;
- (k) prescribing what information must be given to a consumer by an agent, financial planner or supplier about a registered retirement savings plan, a registered education savings plan, a registered retirement income fund or any other plan or fund that the agent or supplier is seeking to have the consumer invest in or that the financial planner is giving the consumer advice about;
- (l) prescribing how the information referred to in clause (k) must be given;
- (m) prescribing words that shall or shall not be used by agents, financial planners and suppliers in relation to finan-

cial planning or named financial products;

- (n) respecting the conduct of arbitration proceedings;
- (o) amending the Schedule.

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

47. The short title of this Act is the *Financial Consumers Act, 1990*. Short title

SCHEDULE

MODEL ARBITRATION CLAUSE

1. If we cannot resolve the dispute, either of us can serve on the other a written notice to arbitrate. Notice to arbitrate
2. A notice to arbitrate must describe what the claim is about and the remedy sought and name the proposed arbitrator or state that the Director is to appoint the arbitrator, in which case a copy of the notice to arbitrate must be sent to the Director. Contents of notice
- 3.—(1) If a notice to arbitrate names the proposed arbitrator, whoever receives it must notify the other party within seven days of receipt whether the proposed arbitrator is acceptable and, if he or she is not acceptable, must also send a copy of the notice to arbitrate and the reply to the Director. Reply to notice
- (2) If a consumer receives a notice to arbitrate and wishes to start a court proceeding instead of having the dispute go to arbitration, he or she must inform the person who gave the notice and, if the notice named a proposed arbitrator, he or she must also inform the Director. Idem
4. Upon accepting appointment, the arbitrator has jurisdiction and will inquire into the claim and any matters relating to it. Jurisdiction of arbitrator
5. The arbitrator need not give reasons for his or her decision. Reasons need not be provided
6. The arbitrator's decision is binding on us. Decision binding

Bill 4

An Act to amend the Residential Rent Regulation Act, 1986



The Hon. D. Cooke
Minister of Housing

1st Reading November 28th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to limit the circumstances under which landlords may obtain rent increases above the annual guideline. The Bill contains Part VI-A of the Act which establishes a complete code for all applications, orders and notices in which the first intended rent increase is on or after October 1st, 1990. The Bill provides that Part VI-A is to be repealed on January 1st, 1993.

The main differences between the present Act and Part VI-A are as follows:

1. The criteria the Minister must consider in determining the total justified rent increase of the residential complex are more limited than under the present Act. Under Part VI-A, the Minister may allow a guideline rent increase and may make findings only with respect to,
 - (a) extraordinary operating costs for municipal taxes, heating, hydro, water, insurance or cablevision, the details of which are set out in Part VI-A;
 - (b) increases or decreases in costs arising from changes in interest rate on renewal or refinancing of mortgages or loans, as specified in the Bill;
 - (c) financing costs allowed in a previous order that no longer exist; and
 - (d) a discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair.
2. The total justified rent increase is then to be apportioned among the rental units according to rules set out in the Bill.
3. The criteria the Minister is to consider in making an order respecting a tenant's application for reduction in rent below the guideline is somewhat more limited than under the present Act. Under Part VI-A, the Minister is to consider,
 - (a) a deterioration in the standard of maintenance;
 - (b) a discontinuance or reduction in services or facilities; and
 - (c) the degree to which the rental unit complies with maintenance standards.
4. The Minister may permit tenants to pay amounts they owe to landlords under an order by twelve equal monthly installments.
5. Where voided orders contain findings for which similar relief is available under Part VI-A, the Minister may make new orders with respect to those findings.
6. The relief available under sections 84, 85, 86, 88, 89, 90 and 92 of the Act is not available under Part VI-A.

The Bill also amends the definition of "rental unit" to make it clear that it includes a rented site for a mobile home or a single family dwelling even if the tenant of the site owns the mobile home or dwelling.

An Act to amend the Residential Rent Regulation Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

7. Section 83 of the Act is amended by adding the following subsections:

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Rented sites
are rental
units

Notice of
rent increase

Clause (1) (b)
amended

Subs. (3)
amended

Application
of subs. (2)

Filing of
documents

Subs. (1)
amended

Subs. (4)
amended

Payment of
order by
installments

Idem (7) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

8. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE 1ST DAY OF OCTOBER, 1990

Definition **100a.** In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application **100b.**—(1) Subject to subsection (2), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception (2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Part VI does not apply (3) Part VI does not apply where this Part applies, unless this Part provides otherwise.

Maximum increase without application **100c.**—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless,

- (a) an order has been made in accordance with this Part; or
- (b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

Twelve months between increases (2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect.

Application to the Minister **100d.**—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c.

Whole building review (2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application.

Idem (3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section.

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application. Procedure on application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given. Landlord may apply without notice under s. 5

100e.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance or cablevision respecting the residential complex, Definition

- (a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or
- (b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component.

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods, Criteria for rent increase

- (a) an operating cost allowance equal to A x B where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

- (b) any extraordinary operating costs;
- (c) any increase or decrease of costs arising from changes in interest rate occurring on the renewal or refinancing by the applicant landlord of a mortgage or loan,
 - (i) that is made between parties dealing at arms-length, and
 - (ii) that relates to the acquisition or construction of the residential complex;

- (d) subject to subsection (7), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and

	(e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.	
Justified rent increase	(3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).	
Extraordinary operating costs considered together	(4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).	
Idem	(5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).	
Calculation of interest rate changes	(6) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so, (a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and (b) the Minister shall not apply an amortization period that is less than twenty-five years.	
Application of clause (2) (d)	(7) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.	
Substance of transactions may be examined	(8) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing, (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and (b) may have regard to the pattern of activities relating to the residential complex.	
Apportionment of total rent increase	100f. —(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section. (2) The total rent increase for the residential complex shall be apportioned to the rental units as follows: 1. Determine the justified rent increase for the residential complex.	
Steps on apportionment	2. Determine the gross potential rent for the residential complex. 3. Determine what proportion the justified rent increase is to the gross potential rent. 4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit. (3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c. (4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent. (5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application. (6) An order may provide that no rent increase is justified.	Rent increase less than guideline allowed Increase made to maximum rent No rent increase ordered above application Idem
	100g. —(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c. (2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application. (3) The Minister shall consider the following factors on the application: 1. A deterioration in the standard of maintenance and repair that affects the rental unit. 2. A discontinuance or reduction in the services or facilities that are provided to the rental unit. 3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law. 4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality.	Tenant may dispute increase permitted under s. 100c Rules on application Minister's considerations on tenant's application
	100h. —(1) The Minister's order under this Part shall provide, (a) the maximum rent that may be charged for each rental unit; and (b) the date on which the maximum rent for each unit takes effect. (2) The Minister's order under this Part may also,	Order of the Minister on the application Idem

(a) provide that the landlord or the tenant shall pay to the other a sum of money that is owed as a result of the order; and

(b) set terms and conditions of the order.

Maximum rent effective for twelve months

(3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.

Payment of order by installments

100i.—(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Idem

(2) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

Remedy

100j. Nothing in this Part limits the right of a tenant or power of the Minister under section 95.

Separate charges

100k.—(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part.

Idem

(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2).

Sections in Part VI apply

100-L. Sections 98 and 99 apply to rents to which this Part applies.

Additional charges prohibited

100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part.

Application of section

100n.—(1) This section applies to an order made by the Minister, the Board or a court under this Act, even if made before the 1st day of October, 1990.

Provisions in orders ineffective

(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void.

s. 84 order void

(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990.

s. 85 order void

(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990.

ss. 88, 89 order not to be considered

(5) The Minister shall not consider any order made under section 88 or 89 in an

application for a rent increase to which this Part applies.

(6) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990.

s. 92 notice of phase in void

(7) An application made to the Minister under section 85, 88 or 89 on or after the 1st day of October, 1990 shall be deemed to be discontinued.

Certain applications discontinued

(8) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.

Idem

(9) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.

Idem

100o.—(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.

Transition

(2) Subsection (1) applies in respect of relief respecting,

Enumerated matters

(a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance or cablevision;

(b) the findings under clause 75 (b) concerning financing costs;

(c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;

(d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.

(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to $A \times B$ where,

Operating cost allowance

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and

B = the gross potential rent.

Minister's
new order

(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).

Determi-
nation of
total rent
increase

(5) The Minister shall determine the total rent increase that is justified and apportion the total rent increase under section 100f.

Collection of
rent

(6) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.

Repayment
of rent

(7) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.

Repayment
of rent

100p. If an order is rendered void under section 100n and no new order may be made under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

Repayment
of amount
paid under
s. 92

100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (6), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

Tenant may
deduct excess

100r. If a landlord does not comply with subsection 100o (7) or section 100p or 100q, the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

Transition,
procedure
where no
order

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent, the application shall be deemed to be an application under section 100d.

Submissions
by landlord

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential*

Rent Regulation Amendment Act, 1990 receives Royal Assent.

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

Submissions
by tenant

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent, the application shall be deemed to be an application under section 100g.

Transition,
tenant's
application
under Part
VI

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1990* receives Royal Assent.

Tenant's
submissions

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

Landlord's
submissions

100u. Part VI-A is repealed on the 1st day of January, 1993.

Repeal of
Part VI-A

9.—(1) Section 118 of the Act is amended by adding the following paragraphs:

- 35a. prescribing for the purposes of Part VI-A the form of a cost revenue statement;
- 35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential complex for the purpose of subsection 100e (2);
- 35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);
- 35d. prescribing criteria for determining costs under clause 100e (2) (c).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for,

Idem

- (a) different types of mortgage or loan;
- (b) different sources of mortgage or loan; and
- (c) different classes of residential complex in respect of which there is a mortgage or loan.

Repeal of
pars. 35a to
35d and
subs. (2)

(3) Paragraphs 35a to 35d of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993.

10.—(1) Clause 122 (1) (d) of the Act is amended by inserting after “71” in the second line “or 100c, whichever is applicable”.

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

Clause (1) (d)
amended

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out “or 100c, whichever is applicable” where it occurs.

11. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990. Saving

12.—(1) This Act, except sections 1 and 7, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(3) Section 7 shall be deemed to have come into force on the 29th day of November, 1990. Idem

13. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1990*. Short title

ENR ON
XB
B56

Bill 4

Government Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 4

An Act to amend the Residential Rent Regulation Act, 1986

The Hon. D. Cooke
Minister of Housing



1st Reading	November 28th, 1990
2nd Reading	December 18th, 1990
3rd Reading	
Royal Assent	

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The purpose of the Bill is to limit the circumstances under which landlords may obtain rent increases above the annual guideline. The Bill contains Part VI-A of the Act which establishes a complete code for all applications, orders and notices in which the first intended rent increase is on or after October 1st, 1990. The Bill provides that Part VI-A is to be repealed on January 1st, 1993.

The main differences between the present Act and Part VI-A are as follows:

1. The criteria the Minister must consider in determining the total justified rent increase of the residential complex are more limited than under the present Act. Under Part VI-A, the Minister may allow a guideline rent increase and may make findings only with respect to,
 - (a) extraordinary operating costs for municipal taxes, heating, hydro, water, insurance, cablevision or other prescribed costs, the details of which are set out in Part VI-A;
 - (b) increases or decreases in costs arising from changes in interest rate on renewal or refinancing of mortgages or loans, as specified in the Bill;
 - (c) financing costs allowed in a previous order that no longer exist; and
 - (d) a discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair.
2. The total justified rent increase is then to be apportioned among the rental units according to rules set out in the Bill.
3. The criteria the Minister is to consider in making an order respecting a tenant's application for reduction in rent below the guideline is somewhat more limited than under the present Act. Under Part VI-A, the Minister is to consider,
 - (a) a deterioration in the standard of maintenance;
 - (b) a discontinuance or reduction in services or facilities; and
 - (c) the degree to which the rental unit complies with maintenance standards.
4. The Minister may permit tenants to pay amounts they owe to landlords under an order by twelve equal monthly installments.
5. Where voided orders contain findings for which similar relief is available under Part VI-A, the Minister may make new orders with respect to those findings.
6. The relief available under sections 84, 85, 86, 88, 89, 90 and 92 of the Act is not available under Part VI-A. However, Part VI will apply, with some modifications, to applications for whole building reviews filed before January 31, 1991 if they seek relief in respect of conditional orders made before November 29, 1990.

The Bill also amends the definition of "rental unit" to make it clear that it includes a rented site for a mobile home or a single family dwelling even if the tenant of the site owns the mobile home or dwelling.

An Act to amend the Residential Rent Regulation Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord’s intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

7. Section 39 of the Act is repealed and the following substituted:

39. Members of the Board shall hold office during pleasure.

8.—(1) Section 83 of the Act is amended by adding the following subsections:

(3a) If the effective date of the first rent increase in the residential complex applied for is on or after the 1st day of October, 1990,

Subs. (3) amended

Application of subs. (2)

Filing of documents

Subs. (1) amended

Subs. (4) amended

Term of office

Order capped at 15 per cent

Rented sites are rental units

Notice of rent increase

Clause (1) (b) amended

(a) the Minister shall not order a rent increase for any rental unit, including a rent increase attributable to equalization, that is greater than 15 per cent of the maximum rent for that rental unit; and

(b) despite section 90, the Minister shall not order a maximum rent for a rental unit greater than that proposed on the application.

Subs. (3a)
repealed

(3b) On the 1st day of January, 1993, subsection (3a) is repealed. ▲

(2) Section 83 is further amended by adding the following subsections:

Payment of
order by
installments

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.

Idem

(7) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.

9. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE 1ST DAY OF OCTOBER, 1990

Definition

100a. In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application

100b.—(1) Subject to subsections (2) and (3), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception

(2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Idem

(3) This Part does not apply to a rent increase proposed in an application made under section 74 before the 31st day of January, 1991 if the application seeks relief in respect of a conditional order made under subsection 89 (2) that was made before the 29th day of November, 1990. ▲

(4) Part VI does not apply where this Part applies, unless this Part provides otherwise. Part VI does not apply

100c.—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless, Maximum increase without application

(a) an order has been made in accordance with this Part; or

(b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

(2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect. Twelve months between increases

100d.—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c. Application to the Minister

(2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application. Whole building review

(3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section. Idem

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application. Procedure on application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given. Landlord may apply without notice under s. 5

100e.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision or any other prescribed cost respecting the residential complex. Definition

(a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or

(b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component. ▲

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods, Criteria for rent increase

- (a) an operating cost allowance equal to $A \times B$ where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

- (b) any extraordinary operating costs;

- (c) any increase or decrease of costs arising from changes in interest rate that occur when the landlord renews or refinances a mortgage or loan if,

(i) that landlord entered into or assumed the mortgage or loan,

(ii) the mortgage or loan related to the acquisition or construction of the residential complex, and

(iii) the renewal or refinancing relates to the acquisition or construction of the residential complex;

- (d) subject to subsection (8), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and

- (e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.

Justified rent increase

- (3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).

Extraordinary operating costs considered together

- (4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).

Idem

- (5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).

When municipal taxes not to be considered

- (6) In determining whether a rent increase is justified under clause (2) (b), the Minister shall not consider any portion of an increase in municipal taxes that results from non-compliance with a municipal or other property standards order.

- (7) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so,

Calculation of interest rate changes

- (a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and

- (b) the Minister shall not apply an amortization period that is less than twenty-five years.

- (8) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.

Application of clause (2) (d)

- (9) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing,

Substance of transactions may be examined

- (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and

- (b) may have regard to the pattern of activities relating to the residential complex.

- 100f.**—(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section.

Apportionment of total rent increase

- (2) The total rent increase for the residential complex shall be apportioned to the rental units as follows:

Steps on apportionment

1. Determine the justified rent increase for the residential complex.
2. Determine the gross potential rent for the residential complex.
3. Determine what proportion the justified rent increase is to the gross potential rent.
4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit.

- (3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c.

Rent increase less than guideline allowed

- (4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent.

Increase made to maximum rent

- (5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application.

No rent increase ordered above application

Idem	(6) An order may provide that no rent increase is justified.		
Tenant may dispute increase permitted under s. 100c	100g. —(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c.	(2) Where the order permits the tenant to pay the amount owing by installments, the tenant may do so even if the tenancy is terminated.	Idem
Rules on application	(2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application.	100j. —(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part.	Tenant not liable to pay illegal rent increase
Minister's considerations on tenant's application	(3) The Minister shall consider the following factors on the application: <ol style="list-style-type: none"> 1. A deterioration in the standard of maintenance and repair that affects the rental unit. 2. A discontinuance or reduction in the services or facilities that are provided to the rental unit. 3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law. 4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality. 	(2) Nothing in this Part limits the relief available to a tenant or the power of the Minister under subsections 95 (2) and (3).	Remedy
	100h. —(1) The Minister's order under this Part shall provide, <ol style="list-style-type: none"> (a) the maximum rent that may be charged for each rental unit; and (b) the date on which the maximum rent for each unit takes effect. 	100k. —(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part.	Separate charges
Order of the Minister on the application		(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2).	Idem
		100-L. Sections 98 and 99 apply to rents to which this Part applies.	Sections in Part VI apply
		100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part.	Additional charges prohibited
		100n. —(1) This section applies to an order made by the Minister, the Board or a court under Part VI, other than an order to which subsection 83 (3a) applies, even if made before the 1st day of October, 1990.	Application of section
		(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void.	Provisions in orders ineffective
		(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990.	s. 84 order void
		(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990.	s. 85 order void
		(5) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void.	Court order void
		(6) The Minister shall not consider any order made under section 88 or 89 in an application for a rent increase to which this Part applies.	ss. 88, 89 order not to be considered
		(7) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990.	s. 92 notice of phase in void
		(8) An application made to the Minister under section 85, 88 or 89 on or after the 1st	Certain applications discontinued
Maximum rent effective for twelve months	(3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.		
Payment of order by installments	100i. —(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly installments or in a lump sum.		

day of October, 1990 shall be deemed to be discontinued.

Idem

(9) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.

Idem

(10) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.

Transition

100o.—(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.

Enumerated matters

(2) Subsection (1) applies in respect of relief respecting,

- (a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance, cablevision or other costs prescribed for the purposes of subsection 100e (1);
- (b) the findings under clause 75 (b) concerning financing costs;
- (c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;
- (d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.

Operating cost allowance

(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to $A \times B$ where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and

B = the gross potential rent.

Minister's new order

(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).



(5) For the purposes of subsection (1), the Minister shall determine the total rent increase that is justified and apportion the total rent increase under subsections 100f (2) to (6).

Determination of total rent increase

(6) Despite subsection (1), if in an order rendered void under section 100n the Minister has allowed an amount in respect of a capital expenditure that was the subject of an order under subsection 89 (2) made before the 29th day of November, 1990, the Minister shall make a new order that,

Certain conditional orders

- (a) subject to clause (c), adopts the findings made in the void order;
- (b) apportions the total rent increase amongst the rental units in the residential complex in accordance with section 82 and subsections 83 (1) to (3);
- (c) subject to clause (d), provides that the rent increase for each rental unit, including the rent increase attributable to equalization, shall be the lesser of the rent increase allowed in the void order for that rental unit and 15 per cent of the maximum rent for that rental unit; and
- (d) does not order a maximum rent for a rental unit greater than that proposed on the application.



(7) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.

Collection of rent

(8) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.

Repayment of rent

100p. If an order is rendered void under section 100n and no new order may be made under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Repayment of rent

100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (7), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the

Repayment of amount paid under s. 92

Residential Rent Regulation Amendment Act, 1991 receives Royal Assent.

Tenant may deduct excess

100r. If a landlord does not comply with subsection 100o (8) or section 100p or 100q, the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

Transition, procedure where no order

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100d.

Submissions by landlord

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Submissions by tenant

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

Transition, tenant's application under Part VI

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100g.

Tenant's submissions

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Landlord's submissions

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

Repeal of Part VI-A

100u. Part VI-A is repealed on the 1st day of January, 1993.

10.—(1) Section 118 of the Act is amended by adding the following paragraphs:

35a. prescribing, for the purposes of Part VI-A, the form of a cost revenue statement;

35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential com-

plex for the purpose of subsection 100e (2);

35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);

35d. prescribing criteria for determining costs under clause 100e (2) (c);

35e. prescribing, for the purposes of Part VI-A, the method of determining maximum rent;

35f. prescribing, for the purposes of section 100g, the manner in which the Minister shall determine the reduction of the rent increase;

35g. prescribing criteria that the Minister may consider in determining the real substance of transactions and activities and the good faith of participants under subsection 100e (9).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for,

Idem

(a) different types of mortgage or loan;

(b) different sources of mortgage or loan; and

(c) different classes of residential complex in respect of which there is a mortgage or loan.

(3) Paragraphs 35a to 35g of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993.

Repeal of pars. 35a to 35g and subs. (2)

11.—(1) Clause 122 (1) (d) of the Act is amended by inserting after "71" in the second line "or 100c, whichever is applicable".

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out "or 100c, whichever is applicable" where it occurs.

Clause (1) (d) amended

12. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990.

Saving

13.—(1) This Act, except section 1 and subsection 8 (2), comes into force on the day it receives Royal Assent.

Commencement

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987.

Idem

Idem

(3) Subsection 8 (2) shall be deemed to have come into force on the 29th day of November, 1990.

14. The short title of this Act is the Short title
Residential Rent Regulation Amendment Act,
1991.

Bill 4

*(Chapter 4
Statutes of Ontario, 1991)*

An Act to amend the Residential Rent Regulation Act, 1986

The Hon. D. Cooke
Minister of Housing



1st Reading	November 28th, 1990
2nd Reading	December 18th, 1990
3rd Reading	April 22nd, 1991
Royal Assent	April 22nd, 1991

An Act to amend the Residential Rent Regulation Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The definition of “rental unit” in section 1 of the *Residential Rent Regulation Act, 1986* is amended by inserting after “structure” in the third line “where the living accommodation or site is”.

(2) Section 1 of the Act is amended by adding the following subsection:

(2) A rented site for a mobile home or a single family dwelling is a rental unit for the purpose of subsection (1) even if the mobile home or the single family dwelling on the site is owned by the tenant of the site.

2. Subsection 5 (1) of the Act is repealed and the following substituted:

(1) The rent charged for a rental unit shall not be increased unless the landlord gives the tenant notice in the prescribed form setting out the landlord's intention to increase the rent and the amount of the increase intended to be made not less than ninety days before the end of,

- (a) a period of the tenancy; or
- (b) the term of a tenancy for a fixed period.

3.—(1) Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the limit imposed by section 71 or 100c, whichever is applicable,

(2) Section 7 of the Act is amended by adding the following subsection:

(2) On the 1st day of January, 1993, clause (1) (b) is amended by striking out “or 100c, whichever is applicable” at the end.

4.—(1) Subsection 20 (3) of the Act is amended by inserting after “subsection 71 (4)” in the fourth line “or clause 100c (1) (b), whichever is applicable”.

(2) Section 20 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (3) is amended by striking out “or clause 100c (1) (b), whichever is applicable” where it occurs.

5.—(1) Subsection 26 (1) of the Act is repealed and the following substituted:

(1) Subsection (2) applies where a landlord or a tenant makes an application under this Act, other than under section 74, 86 or 100d.

(1a) Except as otherwise provided under section 63, the party making the application shall, not later than fifteen days from the date of making the application, file with the Minister the documents and material the party relies upon in support of the application and such other material as may be prescribed.

(2) Section 26 of the Act is amended by adding the following subsection:

(4) On the 1st day of January, 1993, subsection (1) is amended by striking out “86 or 100d” at the end and substituting “or 86”.

6.—(1) Subsection 30 (4) of the Act is amended by striking out “(whole building review)” in the second line and substituting “or 100d (whole building review), whichever is applicable”.

(2) Section 30 of the Act is amended by adding the following subsection:

(6) On the 1st day of January, 1993, subsection (4) is amended by striking out “or 100d (whole building review), whichever is applicable” where it occurs and substituting “(whole building review)”.

7. Section 39 of the Act is repealed and the following substituted:

39. Members of the Board shall hold office during pleasure.

8.—(1) Section 83 of the Act is amended by adding the following subsections:

(3a) If the effective date of the first rent increase in the residential complex applied for is on or after the 1st day of October, 1990,

Subs. (3) amended

Application of subs. (2)

Filing of documents

Subs. (1) amended

Subs. (4) amended

Term of office

Order capped at 15 per cent

Rented sites are rental units

Notice of rent increase

Clause (1) (b) amended

(a) the Minister shall not order a rent increase for any rental unit, including a rent increase attributable to equalization, that is greater than 15 per cent of the maximum rent for that rental unit; and

(b) despite section 90, the Minister shall not order a maximum rent for a rental unit greater than that proposed on the application.

Subs. (3a) repealed

(3b) On the 1st day of January, 1993 subsection (3a) is repealed.

(2) Section 83 is further amended by adding the following subsections:

Payment of order by instalments

(6) The Minister may provide in an order made three months or more after the effective date of the first rent increase set out in the order that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly instalments or in a lump sum.

Idem

(7) Where the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.

9. The Act is amended by adding the following Part:

PART VI-A

RENT REGULATION ON AND AFTER THE 1ST DAY OF OCTOBER, 1990

Definition

100a. In this Part, "gross potential rent" means the total, multiplied by twelve, of the monthly maximum rent for all rental units in the residential complex whether collected or not, for the month immediately preceding the effective date of the first rent increase applied for.

Application

100b.—(1) Subject to subsections (2) and (3), this Part applies to every rent increase that takes effect on or after the 1st day of October, 1990.

Exception

(2) This Part does not apply to a rent increase proposed in an application or set out in a notice issued under section 92 or an order of the Minister, the Board or a court if the effective date of the first rent increase in the residential complex applied for in the application or set out in the order or notice is before the 1st day of October, 1990.

Idem

(3) This Part does not apply to a rent increase proposed in an application made under section 74 before the 31st day of January, 1991 if the application seeks relief in respect of a conditional order made under subsection 89 (2) that was made before the 29th day of November, 1990.

(4) Part VI does not apply where this Part applies, unless this Part provides otherwise. Part VI does not apply

100c.—(1) No landlord shall increase the rent charged for a rental unit by more than the percentage permitted under subsection 71 (1) unless, Maximum increase without application

(a) an order has been made in accordance with this Part; or

(b) the amount of the rent after the increase is applied is not higher than the maximum rent as of the date that the rent increase takes effect.

(2) No landlord shall increase the rent charged for a rental unit unless twelve months have passed since the date that the last increase took effect. Twelve months between increases

100d.—(1) A landlord may apply in the prescribed form to the Minister for an order increasing the maximum rent by more than the amount permitted under section 100c. Application to the Minister

(2) When the landlord applies to the Minister, the landlord shall, as part of the same application, apply for a determination of the maximum rents for all of the rental units situated in the residential complex during the twelve-month period following the effective date of the first intended rent increase in the application. Whole building review

(3) Subsection (2) applies whether or not those rental units are the subject of tenancy agreements at the time the application is made under this section. Idem

(4) Subsections 74 (3) to (6) apply with necessary modifications to the application. Procedure on application

(5) A landlord may apply under this section before a notice of rent increase under section 5 has been given. Landlord may apply without notice under s. 5

100e.—(1) In this section, "extraordinary operating cost" means a change in the cost of municipal taxes, heating, hydro, water, insurance, cablevision or any other prescribed cost respecting the residential complex, Definition

(a) that creates a variance of at least 50 per cent from the same component set out in the Building Operating Cost Index; or

(b) that would justify a variance in gross potential rent of at least 1 per cent from the amount resulting from application of the Building Operating Cost Index component.

(2) On an application under section 100d, the Minister shall determine, in the prescribed manner and for the prescribed periods, Criteria for rent increase

- (a) an operating cost allowance equal to $A \times B$ where,

A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first intended rent increase on the application, and

B = the gross potential rent;

- (b) any extraordinary operating costs;
- (c) any increase or decrease of costs arising from changes in interest rate that occur when the landlord renews or refinances a mortgage or loan if,
- (i) that landlord entered into or assumed the mortgage or loan,
 - (ii) the mortgage or loan related to the acquisition or construction of the residential complex, and
 - (iii) the renewal or refinancing relates to the acquisition or construction of the residential complex;
- (d) subject to subsection (8), any financing costs no longer borne in an amount up to the amount that was allowed in a previous order determining rent increases under this Act or the *Residential Tenancies Act*; and
- (e) any discontinuance or reduction in the services and facilities provided or a deterioration in the standard of maintenance or repair in respect of the residential complex or any rental unit in the complex.

Justified rent increase

- (3) The Minister shall calculate the justified rent increase for the complex on the basis of the determinations under subsection (2).

Extraordinary operating costs considered together

- (4) The landlord shall provide information for all of the cost categories of extraordinary operating costs where the application seeks to justify an increase in rent under clause (2) (b).

Idem

- (5) If the landlord does not comply with subsection (4), the Minister shall determine that there is no rent increase justified under clause (2) (b).

When municipal taxes not to be considered

- (6) In determining whether a rent increase is justified under clause (2) (b), the Minister shall not consider any portion of an increase in municipal taxes that results from non-compliance with a municipal or other property standards order.

- (7) The Minister shall determine costs under clause (2) (c) according to the prescribed criteria and in doing so,

Calculation of interest rate changes

- (a) the Minister shall not consider a total principal amount in excess of 75 per cent of the acquisition or construction cost of the residential complex; and
- (b) the Minister shall not apply an amortization period that is less than twenty-five years.

- (8) Clause (2) (d) applies only where the rate increase in financing costs that justified the rent increase awarded in the previous order took effect on or after the 1st day of August, 1985.

Application of clause (2) (d)

- (9) In determining the total rent increase that is justified on the application, the Minister shall determine as a matter of fact the real substance of all transactions and activities and the good faith of the participants and in so doing,

Substance of transactions may be examined

- (a) may disregard the outward form of the transaction or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex.

- 100f.**—(1) In the order, the Minister shall apportion the amount of the total rent increase found under section 100e among all the units that were the subject of the application in the manner set out in this section.

Apportionment of total rent increase

- (2) The total rent increase for the residential complex shall be apportioned to the rental units as follows:

Steps on apportionment

1. Determine the justified rent increase for the residential complex.
2. Determine the gross potential rent for the residential complex.
3. Determine what proportion the justified rent increase is to the gross potential rent.
4. Apply that proportion to each rental unit's previous maximum rent to get the rent increase for each rental unit.

- (3) The Minister may allow a rent increase for a rental unit that is less than the amount permitted under section 100c.

Rent increase less than guideline allowed

- (4) Subject to subsection (5), a rent increase that is justified shall be applied to the previous maximum rent.

Increase made to maximum rent

- (5) The Minister shall not order a maximum rent for a rental unit greater than that proposed on an application.

No rent increase ordered above application

Idem	(6) An order may provide that no rent increase is justified.		
Tenant may dispute increase permitted under s. 100c	100g. —(1) A tenant may apply to the Minister in the prescribed form to dispute an intended rent increase that does not exceed the amount permitted under section 100c.		
Rules on application	(2) Subsections 94 (2), (3) and (4) apply with necessary modifications to the tenant's application.		
Minister's considerations on tenant's application	(3) The Minister shall consider the following factors on the application: <ol style="list-style-type: none"> 1. A deterioration in the standard of maintenance and repair that affects the rental unit. 2. A discontinuance or reduction in the services or facilities that are provided to the rental unit. 3. The degree to which the rental unit complies with the maintenance standards for the municipality in which the rental unit is located if maintenance standards have been established by by-law. 4. The degree to which the rental unit complies with the maintenance standards established by the Residential Rental Standards Board, if no by-law has been passed by the municipality. 		
Order of the Minister on the application	100h. —(1) The Minister's order under this Part shall provide, <ol style="list-style-type: none"> (a) the maximum rent that may be charged for each rental unit; and (b) the date on which the maximum rent for each unit takes effect. 		
Idem	(2) The Minister's order under this Part may also, <ol style="list-style-type: none"> (a) provide that the landlord or the tenant shall pay to the other a sum of money that is owed as a result of the order; and (b) set terms and conditions of the order. 		
Maximum rent effective for twelve months	(3) The maximum rent for a rental unit, once ordered, stays in effect for twelve months from the effective date set out in the order for that rental unit.		
Payment of order by instalments	100i. —(1) If an order on an application under section 100d or a new order under section 100o is made three months or more after the effective date of the first rent increase set out in the order, the Minister may provide that tenants who owe any sum of money to the landlord as a result of the order may pay the landlord the amount owing in twelve equal monthly instalments or in a lump sum.		
	(2) Where the order permits the tenant to pay the amount owing by instalments, the tenant may do so even if the tenancy is terminated.	Idem	
	100j. —(1) No tenant is liable to pay any rent increase in excess of that permitted to be charged under this Part.	Tenant not liable to pay illegal rent increase	
	(2) Nothing in this Part limits the relief available to a tenant or the power of the Minister under subsections 95 (2) and (3).	Remedy	
	100k. —(1) Subsections 97 (1) to (5) apply with necessary modifications to separate charges under this Part.	Separate charges	
	(2) An increase in rent charged in accordance with subsections 97 (1) to (5) is not an increase in rent for the purpose of subsection 100c (2).	Idem	
	100-L. Sections 98 and 99 apply to rents to which this Part applies.	Sections in Part VI apply	
	100m. Section 100 applies to a landlord, a person acting on behalf of the landlord, a tenant and a person acting on behalf of a tenant under this Part.	Additional charges prohibited	
	100n. —(1) This section applies to an order made by the Minister, the Board or a court under Part VI, other than an order to which subsection 83 (3a) applies, even if made before the 1st day of October, 1990.	Application of section	
	(2) Any order, except an order under section 94 or 95, in which the first date that a rent increase takes effect in the residential complex is on or after the 1st day of October, 1990 shall be deemed to be void.	Provisions in orders ineffective	
	(3) An order made under section 84 shall be deemed to be void if the first effective date varying the maximum rent is on or after the 1st day of October, 1990.	s. 84 order void	
	(4) An order made under section 85 shall be deemed to be void if the effective date of the earliest maximum rent is on or after the 1st day of October, 1990.	s. 85 order void	
	(5) Any order made by the Divisional Court on an appeal from an order referred to in subsection (2), (3) or (4) shall be deemed to be void.	Court order void	
	(6) The Minister shall not consider any order made under section 88 or 89 in an application for a rent increase to which this Part applies.	ss. 88, 89 order not to be considered	
	(7) A notice issued under section 92 shall be deemed to be void if the first effective date of rent increase is on or after the 1st day of October, 1990.	s. 92 notice of phase in void	
	(8) An application made to the Minister under section 85, 88 or 89 on or after the 1st day of October, 1990 shall be deemed to be discontinued.	Certain applications discontinued	

Idem	(9) An application made to the Minister under section 86 shall be deemed to be discontinued if the effective date of the first rent increase applied for is on or after the 1st day of October, 1990.	increase that is justified and apportion the total rent increase under subsections 100f (2) to (6).	
Idem	(10) An application made to the Minister under section 84 shall be deemed to be discontinued if the first intended variation in rent in the application is on or after the 1st day of October, 1990.	(6) Despite subsection (1), if in an order rendered void under section 100n the Minister has allowed an amount in respect of a capital expenditure that was the subject of an order under subsection 89 (2) made before the 29th day of November, 1990, the Minister shall make a new order that,	Certain conditional orders
Transition	100o. —(1) If an order rendered void under section 100n contains as a component of the justified rent increase set out in the reasons to that order relief under section 75 respecting an operating cost allowance and one or more of the matters enumerated in subsection (2), the findings in respect of the relief other than the operating cost allowance shall be adopted by the Minister and shall form part of a new order.	(a) subject to clause (c), adopts the findings made in the void order;	
Enumerated matters	(2) Subsection (1) applies in respect of relief respecting,	(b) apportions the total rent increase amongst the rental units in the residential complex in accordance with section 82 and subsections 83 (1) to (3);	
	(a) the findings under clause 75 (b) concerning extraordinary operating costs, but only with respect to municipal taxes, heating, hydro, water, insurance, cablevision or other costs prescribed for the purposes of subsection 100e (1);	(c) subject to clause (d), provides that the rent increase for each rental unit, including the rent increase attributable to equalization, shall be the lesser of the rent increase allowed in the void order for that rental unit and 15 per cent of the maximum rent for that rental unit; and	
	(b) the findings under clause 75 (b) concerning financing costs;	(d) does not order a maximum rent for a rental unit greater than that proposed on the application.	
	(c) the findings under clause 75 (f) concerning changes in services and facilities or standard of maintenance and repair;	(7) Despite sections 7 and 100n, a landlord may continue to collect the rent approved under the void order until the Minister makes a new order under this section.	Collection of rent
	(d) the findings under clause 75 (h) concerning financing costs no longer borne by the landlord.	(8) The landlord shall pay to each tenant the difference between the tenant's payment of rent to that landlord under the void order and the rent found to be properly payable under this section and shall do so not more than sixty days after the new order is made.	Repayment of rent
Operating cost allowance	(3) The operating cost allowance referred to in subsection (1) shall form part of the new order and shall be equal to $A \times B$ where,	100p. If an order is rendered void under section 100n and no new order may be made under section 100o, the landlord who collected rent under the void order shall pay to the tenant the difference between the tenant's payment of rent under the void order and the rent properly payable under section 100c and shall do so not more than sixty days after the day the <i>Residential Rent Regulation Amendment Act, 1991</i> receives Royal Assent.	Repayment of rent
	A = the percentage set out in the Residential Complex Cost Index for the year, as published by the Minister and calculated in accordance with the formula set out in Schedule A which is applicable as of the effective date of the first rent increase set out in the void order, and	100q. Where a landlord has collected rent under a notice issued under section 92 that is rendered void by subsection 100n (7), that landlord shall pay to the tenant the difference between the tenant's payment of rent under the void notice and the rent properly payable under section 100c and shall do so not more than sixty days after the day the <i>Residential Rent Regulation Amendment Act, 1991</i> receives Royal Assent.	Repayment of amount paid under s. 92
Minister's new order	B = the gross potential rent.	100r. If a landlord does not comply with subsection 100o (8) or section 100p or 100q,	Tenant may deduct excess
Determination of total rent increase	(4) The Minister shall make an order based on the operating cost allowance calculated under subsection (3) and the adopted findings from the void order in respect of the matters set out in subsection (2).		
	(5) For the purposes of subsection (1), the Minister shall determine the total rent		

the affected tenant may deduct the amount owed by that landlord from subsequent rent payments to that landlord until the full amount is satisfied or may apply for repayment of the excess under section 95.

Transition.
procedure
where no
order

100s.—(1) Where the Minister has received an application from a landlord under section 74 that is an application for rent increase to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100d.

Submissions
by landlord

(2) The landlord may make submissions to the Minister on the application not more than thirty days after the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Submissions
by tenant

(3) Any tenant affected by the application may make submissions to the Minister on the application not more than thirty days after the last day the landlord is permitted to make submissions.

Transition.
tenant's
application
under Part
VI

100t.—(1) Where the Minister has received an application from a tenant under section 94 that is an application to which this Part applies, and where no order has been made by the Minister on or before the day the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent, the application shall be deemed to be an application under section 100g.

Tenant's
submissions

(2) The tenant who brought the application may make submissions to the Minister not more than thirty days after the day that the *Residential Rent Regulation Amendment Act, 1991* receives Royal Assent.

Landlord's
submissions

(3) The landlord may make submissions to the Minister not more than thirty days after the last day that the tenant is permitted to make submissions.

Repeal of
Part VI-A

100u. Part VI-A is repealed on the 1st day of January, 1993.

10.—(1) Section 118 of the Act is amended by adding the following paragraphs:

- 35a. prescribing, for the purposes of Part VI-A, the form of a cost revenue statement;
- 35b. prescribing the manner in which the Minister shall determine the justified rent increase for the residential complex for the purpose of subsection 100e (2);
- 35c. prescribing the period of time for which the Minister shall consider each of the matters set out in clauses 100e (2) (a) to (e);

35d. prescribing criteria for determining costs under clause 100e (2) (c);

35e. prescribing, for the purposes of Part VI-A, the method of determining maximum rent;

35f. prescribing, for the purposes of section 100g, the manner in which the Minister shall determine the reduction of the rent increase;

35g. prescribing criteria that the Minister may consider in determining the real substance of transactions and activities and the good faith of participants under subsection 100e (9).

(2) Section 118 is further amended by adding the following subsections:

(2) A regulation made under paragraph 35d of subsection (1) may prescribe different criteria for, Idem

- (a) different types of mortgage or loan;
- (b) different sources of mortgage or loan; and
- (c) different classes of residential complex in respect of which there is a mortgage or loan.

(3) Paragraphs 35a to 35g of subsection (1) and subsection (2) are repealed on the 1st day of January, 1993. Repeal of
pars. 35a to
35g and subs.
(2)

11.—(1) Clause 122 (1) (d) of the Act is amended by inserting after "71" in the second line "or 100c, whichever is applicable".

(2) Section 122 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 41, is further amended by adding the following subsection:

(4) On the 1st day of January, 1993, clause (1) (d) is amended by striking out "or 100c, whichever is applicable" where it occurs. Clause (1) (d)
amended

12. Section 1 does not affect the rights acquired by any person from a judgment or order of any court before the 29th day of November, 1990. Saving

13.—(1) This Act, except section 1 and subsection 8 (2), comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 1st day of January, 1987. Idem

(3) Subsection 8 (2) shall be deemed to have come into force on the 29th day of November, 1990. Idem

14. The short title of this Act is the *Residential Rent Regulation Amendment Act, 1991.* Short title

Bill 5

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 5

An Act to regulate Alarm Systems

Mr. McLean



1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The purpose of the Bill is to regulate alarm systems installed on real property.

The Bill establishes a licensing system for persons engaged in the business of providing alarm services and persons employed as alarm installers. The Bill provides for investigations regarding the suitability of persons applying for licences and investigations of complaints against persons providing alarm services.

In addition, the Bill prohibits the sale of alarm systems not meeting minimum technical standards and requires occupiers of real property on which an alarm system is installed to notify the local police of the installation.

The Bill establishes a system of fines for false alarms that cause the unnecessary response of the police, a fire department or an ambulance service. Higher fines are specified for subsequent false alarms occurring within twelve months of a first false alarm. The Bill also permits a court to order the disconnection of an alarm system after the third false alarm within any twelve-month period.

An Act to regulate Alarm Systems

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“alarm installer” means a person who installs, maintains or repairs alarm systems while employed by a person engaged in the business of providing alarm services;

“alarm services” means services involving the installation, maintenance or repair of alarm systems;

“alarm system” means a device or series of devices installed on real property for the purpose of detecting an emergency that requires a response by the police, a fire department or an ambulance service;

“licence” means a licence under this Act;

“licensee” means the holder of a licence under this Act;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar under the *Private Investigators and Security Guards Act*;

“regulations” means the regulations made under this Act.

Licences

2.—(1) No person shall engage in the business of providing alarm services unless the person holds a licence for that purpose.

Idem

(2) No person shall act as an alarm installer unless the person is licensed for that purpose.

Holding out

(3) No person shall hold out as acting as an alarm installer or as being engaged in the business of providing alarm services unless the person is licensed under this Act.

Application for licence

3.—(1) A person may apply to the Registrar for a licence to engage in the business of providing alarm services or a licence to act as an alarm installer.

Idem

(2) An application for a licence shall be made on the form supplied by the Registrar and shall be accompanied by the prescribed fees.

(3) No person engaged in the business of providing alarm services shall employ as an alarm installer a person who is not the holder of a licence.

Employer to ensure employees licensed

4.—(1) Every applicant for a licence shall state in the application an address for service in Ontario.

Address for service

(2) Every person licensed to engage in the business of providing alarm services shall within five days notify the Registrar in writing of any change in the person's address for service or in the address of any place at which the person carries on business.

Notice of change in address

(3) All notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address given under this section.

Service

5.—(1) The Registrar or any person authorized by the Registrar may make such inquiry and investigation as he or she considers sufficient regarding the character, financial position and competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Registrar considers necessary.

Investigation of applicant

(2) The Registrar may require verification by statutory declaration of any information or material submitted in relation to an application.

Verification

6.—(1) The Registrar shall issue a licence or renewal of a licence if, in the opinion of the Registrar, the proposed licensing is not against the public interest.

Issuance of licence

(2) A licence is subject to such conditions as may be imposed by the Registrar or The Commercial Registration Appeal Tribunal or as may be prescribed.

Conditions attaching to licence

7. A licence is not transferable.

Transfers

8. Every licence and renewal of a licence expires on the 31st day of March in each year.

Expiry of licences

9.—(1) Every applicant for renewal of a licence shall, on or before the 1st day of March in each year, apply to the Registrar for the renewal of the licence.

Renewals

Idem	(2) An application for renewal of a licence shall be made on the form supplied by the Registrar and be accompanied by the prescribed fees.	13. If the Registrar receives a complaint in respect of the carrying on of the business of providing alarm services and so requests in writing, the person carrying on the business shall furnish the Registrar with such records or information respecting the matter complained of as the Registrar may require.	Complaints
Suspension and revocation of licence	10. Subject to section 11, the Registrar may suspend or revoke a licence if, (a) the licensee is convicted of an offence under the <i>Criminal Code</i> (Canada) or under this Act; (b) the licensee is in breach of a term or condition of the licence; or (c) in the opinion of the Registrar, to do so is in the public interest.	14. No person shall offer for sale, sell or lease an alarm system not meeting the prescribed technical standards for alarm systems.	Technical standards—prohibition
Proposal	11.— (1) If the Registrar proposes to refuse to issue or renew a licence, proposes to impose conditions on a licence or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee.	15. The occupier of real property on which an alarm system is installed shall give notice of the installation to the police force having jurisdiction in the area where the property is located, (a) within ninety days after the day this Act comes into force, if the alarm system was installed before that day; or (b) within thirty days after the date of installation, if the alarm system is installed on or after the day this Act comes into force.	Notice to local police force of alarm system
Notice	(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by The Commercial Registration Appeal Tribunal if the applicant or licensee mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing.	16.— (1) The occupier of real property on which an alarm system is installed is guilty of an offence if the alarm system is activated, whether intentionally or not, when there is no emergency requiring response by the police, a fire department or an ambulance service and there is a response to the alarm by the police, a fire department or an ambulance service.	False alarm—offence
No hearing	(3) If an applicant or licensee does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee.	(2) On conviction for an offence under subsection (1), the convicted person is liable to a fine of,	Penalty
Hearing	(4) If an applicant or licensee requires a hearing, the Tribunal shall appoint a time for and hold a hearing.	(a) not more than \$500 for the first offence within any twelve-month period;	
Order	(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Registrar.	(b) not less than \$250 and not more than \$1,000 for the second offence within any twelve-month period; or (c) not less than \$500 and not more than \$2,000 for the third offence or any further subsequent offence within any twelve-month period.	
Conditions	(6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.	(3) In convicting a person of a third offence or any further subsequent offence under subsection (1) within any twelve-month period, a court may, in addition to the fine imposed under subsection (2), order the disconnection of the alarm system relating to the offence.	Disconnection of alarm system
Parties	(7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.	17.— (1) Every person who,	Offences
Records and information	12. Every person engaged in the business of providing alarm services shall maintain such records and information as are prescribed.	(a) knowingly furnishes false information in any application under this Act or in any statement required to be furnished under this Act;	

- (b) fails to comply with any order, direction or other requirement made under this Act;
- (c) contravenes a condition of a licence; or
- (d) contravenes subsection 2 (1), (2), (3), 3 (3) or 4 (2) or section 13, 14 or 15,

is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) If a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed is \$25,000 and not as provided therein.

Regulations

18.—(1) The Lieutenant Governor in Council may make regulations,

- (a) exempting any person or class of persons from any provision of this Act or the regulations;
- (b) prescribing fees for licences and the renewal of licences;
- (c) prescribing conditions that attach to a licence;

- (d) prescribing records and information to be kept by licensees;
- (e) prescribing technical standards for alarm systems;
- (f) requiring licensees to maintain liability insurance and prescribing the amount thereof;
- (g) requiring licensees to be bonded;
- (h) prescribing the amount, form and terms of bonds;
- (i) providing for the forfeiture of bonds and the disposition of the proceeds on forfeiture.

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and may require compliance with any code or standard adopted.

Adoption of codes by reference

(3) A regulation may be general or particular in its application.

Scope of regulations

19. This Act comes into force on the day it receives Royal Assent.

Commencement

20. The short title of this Act is the *Alarm Systems Act, 1990*.

Short title

Bill 6

An Act respecting Heritage Day

Mr. McLean



1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday on the third Monday in the month of February to celebrate "Heritage Day".

An Act respecting Heritage Day

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (l) of the *Employment Standards Act*, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted:

- (l) “public holiday” means New Year’s Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and the 26th day of December.

2. Clause 1 (l) (a) of the *Retail Business Holidays Act*, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding the following subclause:

- (ia) Heritage Day, being the third Monday in February in each year.

3. Paragraph 11 of section 30 of the *Interpretation Act*, is amended by striking out “Dominion Day” in the fifth line and substituting “Heritage Day, being the third Monday in February in each year”.

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is the *Heritage Day Act, 1990*. Short title

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Bill 7

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 7

An Act to amend the Powers of Attorney Act

Mr. Sterling



1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for a durable power of attorney with respect to consent and withdrawal of consent to medical treatment.

An Act to amend the Powers of Attorney Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of the *Powers of Attorney Act* is amended by adding the following subsection:

(2) A provision in a power of attorney ^{Idem} may authorize another person to give consent or directions respecting,

- (a) the medical treatment of the person giving the authorization; or
- (b) the withdrawal of medical treatment for the person giving the authorization.

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

3. The short title of this Act is the *Powers of Attorney Amendment Act, 1990*. ^{Short title}

Bill 8

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 8

An Act respecting Natural Death

Mr. Sterling



1st Reading November 29th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to recognize the right of an adult person to make a written declaration (living will) that instructs a physician or other health-care provider to withhold or withdraw life-sustaining procedures in the event of a terminal condition.

Criteria are established to execute a valid living will and to revoke it.

The Bill protects from civil liability and disciplinary action physicians and other health-care providers who withhold or withdraw life-sustaining procedures in accordance with a patient's wishes as set out in a living will.

Penalties are provided in situations where the physician or other health-care provider refuses to follow the living will and also refuses to make reasonable effort to transfer the patient to another physician or health-care provider willing to follow the living will.

An Act respecting Natural Death

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“life-sustaining procedure” means a medical procedure or treatment that is performed or applied for the purpose of postponing the moment of death, but does not include a medical procedure or treatment that is performed or applied for the purpose of alleviating pain;

“living will” means a written declaration that sets out that the person executing the declaration does not wish to have a life-sustaining procedure carried out on him or her if the person is suffering from a terminal condition and is no longer mentally competent;

“mentally competent” means able to understand,

- (a) the subject-matter in respect of which consent may be given or withheld, and
- (b) the consequences of giving or withholding consent;

“physician” means a legally qualified medical practitioner;

“terminal condition” means an incurable or irreversible condition such that death is imminent and may only be postponed by the performance of a life-sustaining procedure.

Living will

2. A person who attains the age of majority and is mentally competent may execute a living will.

Validity of living will

3.—(1) The living will of a person is valid for the purposes of this Act if,

- (a) it is in writing;
- (b) it is signed by the person;
- (c) it is signed by the person in the presence of two or more witnesses who are present at the same time;
- (d) it is signed by two or more of the witnesses in the presence of the person; and
- (e) it is dated on the day it is executed.

(2) The living will of a person is not valid if the witnesses are related to the person, are potential beneficiaries of the person's estate or are financially responsible for the person.

Witnesses as beneficiaries

(3) The living will of a person is not valid while the person is pregnant.

Pregnancy

4.—(1) The living will of a person is revoked if the person,

Revocation

- (a) destroys, defaces or directs another person who is not related to him or her to destroy or deface the living will with the intention of revoking it;
- (b) signs a document directing the revocation of the living will before one witness who is not related to the person; or
- (c) indicates to another person who is not related to him or her, orally or by other non-written means of communication, an intention to revoke it.

(2) Subsection (1) applies despite the fact that the person was not mentally competent at the time of the revocation.

Application of subs. (1)

5.—(1) The living will of a person takes effect for the purposes of this Act when it is given to a physician who is responsible for the person's medical care and treatment.

When living will effective

(2) The physician who is given the living will of a person shall record its existence in the person's medical record and insert it in the person's medical record.

To be included in record

(3) The living will of a person that is given to a physician ceases to be effective for the purposes of this Act when the physician or another physician who is responsible for the person's medical care and treatment is notified that the living will is revoked under subsection 4 (1).

Physician notified of revocation

(4) A physician who is notified under subsection (3) that the living will of a person is revoked shall immediately record the fact in the person's medical record and shall immediately remove the living will from the medical record.

To be included in the record

6.—(1) A person is not liable for damages to a person who executes a living will

Liability

or subject to disciplinary action for the withdrawal or withholding of a life-sustaining procedure under the living will.

Idem

(2) Subsection (1) applies even if the living will is not valid, if the person acted in accordance with the living will believing it to be valid.

Transfer of
care and
treatment

(3) A health-care provider who is responsible for the medical care and treatment of a person and who is unwilling to comply with the living will of the person shall, as promptly as is practicable, take all reasonable steps to transfer the care and treatment of the person to another health-care provider who is willing to comply with the living will.

Life
insurance

7. A death that occurs because of the withdrawal or withholding of a life-sustaining procedure under a living will shall be deemed not to be a suicide or self-induced death for the purposes of any legal document.

Offence

8.—(1) Except as provided in clause 4 (1) (a) and subsection 5 (4), a person who knowingly conceals, defaces or destroys another person's living will is guilty of an offence.

(2) A health-care provider who is unwilling to comply with a living will and who does not promptly act to take all reasonable steps to transfer the care and treatment of the person to another health-care provider is guilty of an offence. Idem

(3) A person who is convicted of an offence under this Act is liable to a fine of not more than \$1,000 and to imprisonment for a term of not more than one year. Idem

9.—(1) This Act does not create a presumption as to the intention or wishes of a person who has revoked or has not executed a living will. No presumption created

(2) This Act does not impose an obligation to perform a life-sustaining procedure if the obligation does not otherwise exist at law. No obligations created

10. This Act comes into force on the day it receives Royal Assent. Commencement

11. The short title of this Act is the *Natural Death Act, 1990*. Short title

Bill 9

Government Bill

Projet de loi 9

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 9

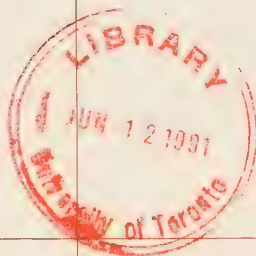
**An Act to authorize borrowing on the
credit of the Consolidated Revenue
Fund**

The Hon. F. Laughren
Treasurer of Ontario and
Minister of Economics

Projet de loi 9

**Loi autorisant des emprunts garantis
par le Trésor**

L'honorable F. Laughren
Trésorier de l'Ontario et
ministre de l'Économie



1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 4 décembre 1990
2^e lecture
3^e lecture
sanction royale

*This Bill has been reprinted to conform to the new
printing format*

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing money, up to a total aggregate amount of \$5,000,000,000, for the Consolidated Revenue Fund. It is expected that the Canada Pension Plan and the public capital market will be the principal sources of funds. Any unused borrowing authority will expire on September 30th, 1991.

NOTE EXPLICATIVE

L'objet du présent projet de loi est d'autoriser des emprunts pour le Trésor, jusqu'à concurrence de 5 000 000 000 \$, qui seraient principalement financés par le Régime de pensions du Canada et le marché financier. L'autorisation d'emprunter expirera le 30 septembre 1991.

**An Act to authorize borrowing on the
credit of the Consolidated Revenue
Fund**

**Loi autorisant des emprunts garantis
par le Trésor**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Borrowing
authorized

1.—(1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$5,000,000,000, as are considered necessary to discharge any indebtedness or obligation of Ontario, to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund or to reimburse the Consolidated Revenue Fund for money expended for any of such purposes.

1 (1) Le lieutenant-gouverneur en conseil peut, conformément à la *Loi sur l'administration financière* et pour un montant total ne dépassant pas 5 000 000 000 \$, contracter les emprunts jugés nécessaires afin d'acquitter une dette ou un engagement de l'Ontario, d'effectuer un paiement prélevé sur le Trésor qui est autorisé ou requis par une loi ou de rembourser le Trésor des sommes d'argent utilisées à ces fins.

Autorisation
d'emprunter

Other Acts

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

(2) L'autorisation d'emprunter que confère la présente loi s'ajoute aux autorisations conférées par d'autres lois.

Autres lois

Expiry

2. No order in council authorizing borrowing under this Act shall be made after the 30th day of September, 1991.

2 Nul décret autorisant un emprunt en vertu de la présente loi n'est pris après le 30 septembre 1991.

Cessation
d'effet

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

Short title

4. The short title of this Act is the *Ontario Loan Act, 1990*.

4 Le titre abrégé de la présente loi est *Loi de 1990 sur les emprunts de l'Ontario*.

Titre abrégé

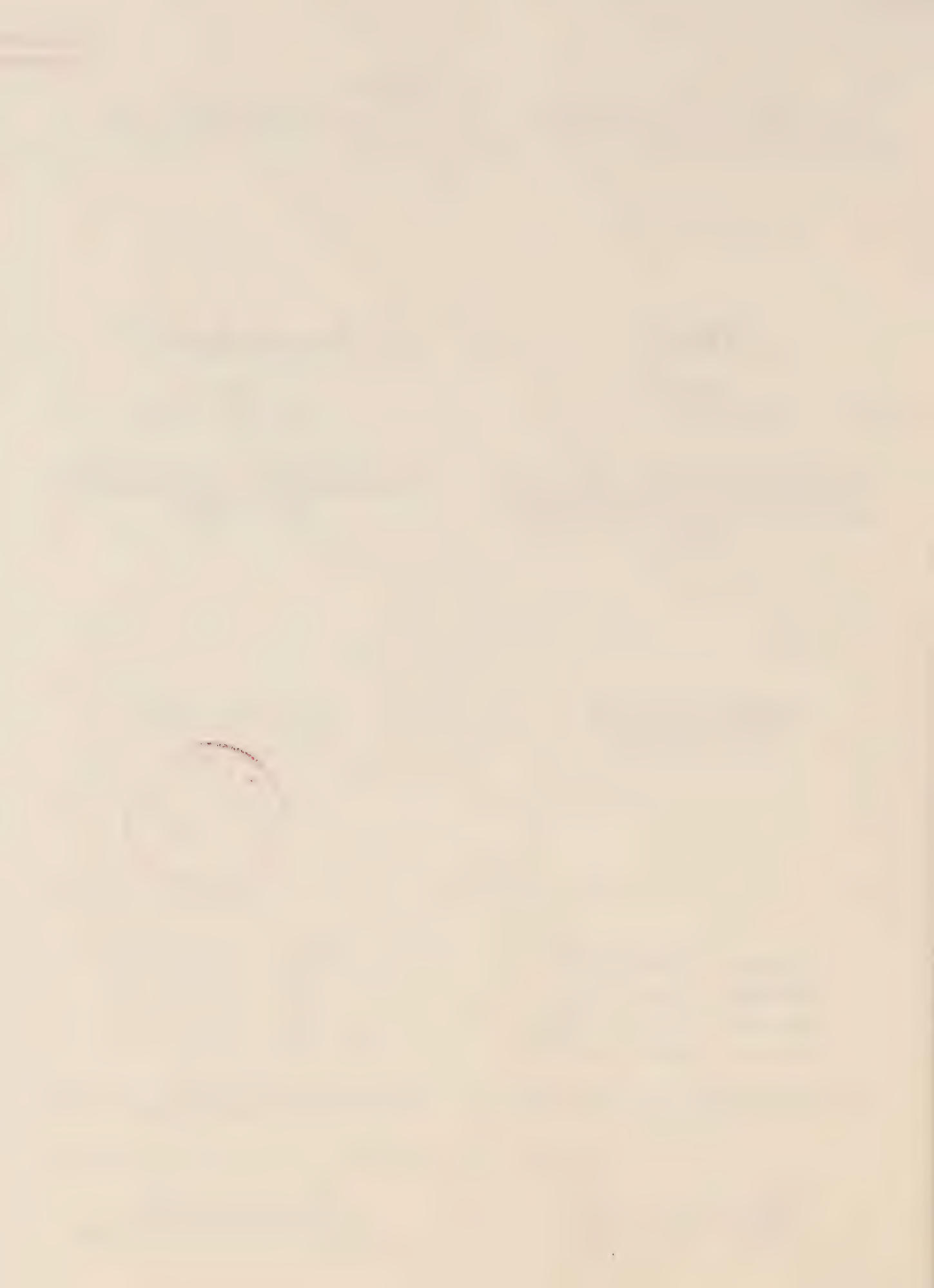
Bill 9*(Chapter 21
Statutes of Ontario, 1990)***An Act to authorize borrowing on the
credit of the Consolidated Revenue
Fund****The Hon. F. Laughren**
Treasurer of Ontario and
Minister of Economics

1st Reading	December 4th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

*This Bill has been reprinted to conform to the new
printing format***Projet de loi 9***(Chapitre 21
Lois de l'Ontario de 1990)***Loi autorisant des emprunts garantis
par le Trésor****L'honorable F. Laughren**
Trésorier de l'Ontario et
ministre de l'Economie

1 ^{re} lecture	4 décembre 1990
2 ^e lecture	12 décembre 1990
3 ^e lecture	18 décembre 1990
sanction royale	20 décembre 1990

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*



An Act to authorize borrowing on the credit of the Consolidated Revenue Fund

Loi autorisant des emprunts garantis par le Trésor

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Borrowing authorized

1.—(1) The Lieutenant Governor in Council may borrow in any manner provided by the *Financial Administration Act* such sums, not exceeding a total aggregate amount of \$5,000,000,000, as are considered necessary to discharge any indebtedness or obligation of Ontario, to make any payment authorized or required by any Act to be made out of the Consolidated Revenue Fund or to reimburse the Consolidated Revenue Fund for money expended for any of such purposes.

1 (1) Le lieutenant-gouverneur en conseil peut, conformément à la *Loi sur l'administration financière* et pour un montant total ne dépassant pas 5 000 000 000 \$, contracter les emprunts jugés nécessaires afin d'acquitter une dette ou un engagement de l'Ontario, d'effectuer un paiement prélevé sur le Trésor qui est autorisé ou requis par une loi ou de rembourser le Trésor des sommes d'argent utilisées à ces fins.

Autorisation d'emprunter

Other Acts

(2) The authority to borrow conferred by this Act is in addition to that conferred by any other Act.

(2) L'autorisation d'emprunter que confère la présente loi s'ajoute aux autorisations conférées par d'autres lois.

Autres lois

Expiry

2. No order in council authorizing borrowing under this Act shall be made after the 30th day of September, 1991.

2 Nul décret autorisant un emprunt en vertu de la présente loi n'est pris après le 30 septembre 1991.

Cessation d'effet

Commencement

3. This Act comes into force on the day it receives Royal Assent.

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

Short title

4. The short title of this Act is the *Ontario Loan Act, 1990*.

4 Le titre abrégé de la présente loi est *Loi de 1990 sur les emprunts de l'Ontario*.

Titre abrégé

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Bill 10

Government Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 10

An Act to amend the Corporations Tax Act

The Hon. S. Wark-Martyn
Minister of Revenue



1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the proposals contained in the Budgets of April 20, 1988, May 17, 1989 and April 24, 1990 and amends the *Corporations Tax Act* (the "CTA"), consequential upon the passage of amendments to the *Income Tax Act* (Canada) (the "Federal Act"), in order to maintain the provisions of the CTA in conformity with existing policies of Ontario for the taxation of corporations.

SECTION 1. The repeal of subclause 1 (1) (aa) (i) of the CTA is consequential upon amendments to the Federal Act and eliminates a redundant reference to paragraph 125 (7) (d) of the *Income Tax Act* (Canada), the definition of "personal services business".

The repeal of clause 1 (1) (ja) is consequential upon elimination and replacement of the special small corporation rules with the exempt from filing rules in clause 67 (1) (d) of the CTA.

The enactment of clause 1 (1) (ab) makes it clear that the Federal Act provision deeming things received on the date mailed does not apply for CTA purposes.

The re-enactment of sub-subclause 1 (2) (d) (iv) (A) adds sections of the Federal Act which contain references to other sections of the Federal Act which will apply for the purposes of the CTA.

The enactment of subsection 1 (1a) is consequential upon and parallels amendments to the Federal Act which permit private corporations to establish their year-ends immediately prior to the application of the new taxable capital gain inclusion proportions brought about by tax reform.

The amendment to subsection 1 (7) of the Act permits retroactivity of regulations that modify and apply the Act to give effect to provisions of international tax agreements.

The enactment of subsection 1 (8) will permit the use of any form of postal delivery service for which a receipt is obtained from the addressee.

SECTION 2. The enactment of section 5a adds a general anti-avoidance provision to the CTA. This reflects the 1988 Budget proposal to parallel federal tax reform measures. This section can be used to deny the tax benefit that would result from a transaction unless the transaction may reasonably be considered to have been undertaken or arranged primarily for purposes other than to obtain the tax benefit.

SECTION 3. The re-enactment of section 7 makes it clear that there may be additions as well as deductions in computing taxable income.

SECTION 4.—Subsections 1, 3 and 4. The re-enactment of subsection 12 (2), amendment to subsection 12 (7) and repeal of clause 12 (7) (c) are consequential upon and parallel amendments to the Federal Act which generally disallow deductions for interest and property taxes on vacant land held but not used in connection with a business and for land used in the course of a business of development and resale except to the extent of income from the land.

Subsection 2. The re-enactment of subsection 12 (6) adds an exemption from the 5/15.5 add-back for payments to non-residents for certain types of rights related to television news programs produced in Canada. The add-back is being expanded to include any other means of reproduction for use in connection with television.

Subsection 5. The re-enactment of clause 12 (7) (d) implements the 1988 Budget proposal to extend the resource allowance to mining profits.

Subsection 6. The re-enactment of subsection 12 (9b) is consequential upon amendments to the Federal Act providing transitional rules for phasing out deductions for bank reserves under the pre-federal tax reform rules. An existing Ontario policy difference is taken into account.

Subsection 7. The repeal of subsections 12 (14) and (15) are consequential upon amendments to sub-subclause 1 (2) (d) (iv) (A) which provide an automatic link with Federal Act provisions.

Subsection 8. The enactment of subsection 12 (6c) replaces a reference in a provision adopted from the Federal Act with the appropriate CTA reference.

The enactment of subsection 12 (9c) is consequential upon amendments to the Federal Act and creates a regulation making authority to allow for federal and Ontario policy differences in transitional rules for the revised treatment of bank reserves.

The enactment of subsection 12 (10a) implements the 1988 Budget proposal that the International Banking Centre provisions in the Federal Act amendments would not be paralleled in the CTA.

The enactment of subsections 12 (18) and (19) parallel and are consequential upon amendments to the Federal Act which phase in over five years the disallowance of deductions for interest and property taxes on certain vacant land except to the extent of income from the land.

SECTION 5. The enactment of section 12a implements the 1988 Budget proposal for a research and development Super Allowance. The Super Allowance is a direct deduction from income based upon current and capital expenditures on scientific research and development incurred in Ontario.

The enactment of section 12b implements the 1988, 1989 and 1990 Budget proposals related to the Ontario current cost adjustment ("the OCCA"). The OCCA is a direct deduction from income otherwise subject to tax in Ontario calculated as a percentage of the tax depreciable cost of new manufacturing and processing machinery and equipment used in Ontario. The OCCA rate is equal to 10 per cent for eligible assets acquired in 1989, 15 per cent for eligible assets acquired in 1990 and 30 per cent for deductions claimed for taxation years commencing after 1990. Prescribed pollution control equipment acquired after May 17, 1989 is also eligible for the OCCA. Manufacturing and processing assets acquired after 1991 will not qualify for the OCCA.

SECTION 6. The enactment of clause 13 (4) (e) requires adjustments to the adjusted cost base of a partnership interest in respect of research and development Super Allowance and Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 7. The enactment of section 16a reinstates rules for calculating reserves for resource property disposals as a complement to Ontario's adoption of the new federal successor rules for resource corporations.

SECTION 8.—Subsection 1. The repeal of subsection 18 (5) is consequential upon amendments to the Federal Act which revise the existing rules for the deduction of Canadian exploration and development expenses by successor corporations and move the rules to section 66.7 of the Federal Act. The new rules are adopted in section 18c of the CTA.

Subsection 2. The re-enactment of subsection 18 (7) removes references to repealed sections of the Federal Act. The enactment of subsection (7a) parallels amendments to the Federal Act and changes cross-references to the Federal Act related to successor rules for Canadian resource properties.

Subsections 3 and 4. The amendment to subsection 18 (14) adopts Federal Act definitions relating to Canadian resource properties and adds a reference to section 18c of the CTA which adopts the new Federal Act successor rules.

SECTION 9. The amendment to subclause 18a (b) (iii) is consequential upon amendments to the Federal Act and will ensure that Canadian development expenses incurred in Ontario with respect to which the underlying resource properties have been transferred to a successor corporation will no longer qualify the predecessor corporation for the additional 70 per cent write-off for Ontario development expenses.

The amendments to section 18a make it clear that the Minister referred to in clause 66.1 (6) (a) (ii.1) (D) of the Federal Act shall be read as a reference to the Minister of National Revenue.

The amendment to clause 18a (b) prorates, for short taxation years, the additional 70 per cent deduction allowed for Canadian development expenses incurred in Ontario.

SECTION 10. The amendment to section 18b and clause 18b (a) adopts a provision in the Federal Act which allows the late filing of forms in respect of flow-through share arrangements.

The amendments to clauses 18b (b), (c) and (d) adopt a provision in the Federal Act which allows the flow-through of oil and gas exploration expenditures made after 1987 and renounced before October 14, 1988.

SECTION 11. The enactment of section 18c parallels and is consequential upon amendments to the Federal Act which permit successor corporations beyond a second successor to deduct from income resource expenditures acquired from a predecessor corporation.

The enactment of section 18d parallels and is consequential upon amendments to the Federal Act which prorate deductions for Canadian development expenses and Canadian oil and gas property expenses.

The enactment of section 18e parallels and is consequential upon amendments to the Federal Act which limit the deduction of resource expenditures by a limited partner of a limited partnership to the partner's "at-risk amount" with respect to the partnership.

SECTION 12. The enactment of subsection 20 (3) parallels and is consequential upon amendments to the Federal Act and applies federally prescribed interest rates to refundable deposits to limit deductions for lease expenses of passenger vehicles.

The enactment of subsection 20 (4) prevents corporations from receiving a tax benefit from unrelated parties through the transfer of foreign resource property in an amalgamation or merger.

SECTION 13. The re-enactment of section 21 is similar to amendments to the Federal Act and ensures that the amount of a benefit conferred on a corporation will be included in the corporation's income for tax purposes.

SECTION 14. The enactment of subsection 25 (7) requires adjustments to the calculation of a limited partnership loss in respect of the research and development Super Allowance and the Ontario current cost adjustment deductions claimed by a corporate partner, which relate to expenditures by the partnership.

SECTION 15. The enactment of section 26a parallels and is consequential upon amendments to the Federal Act which allow depreciation to be recaptured from beneficiaries of mutual fund trusts who received the benefit of the CCA deduction.

SECTION 16.—Subsections 1 and 2. The re-enactment of subsections 27 (2) and (3), which is consequential upon amendments to the Federal Act, changes cross-references to the provisions of the Federal Act with respect to the filing of receipts to support charitable gifts and related definitions.

Subsection 3. The enactment of subsections 27 (10) and (11) contain technical changes consequential upon amendments to the Federal Act rules dealing with the deductibility of losses where there is a change in control of a corporation.

The enactment of subsection 27 (12) requires certain adjustments to the amount of limited partnership losses that can be deducted by a corporate partner. The adjustments pertain to the research and development Super Allowance and the Ontario current cost adjustment deductions claimed by the partner, which relate to expenditures by the partnership.

SECTION 17. The enactment of section 27a allows the Minister to determine the maximum amount of a loss that may be deducted in a year in certain cases where the loss has been created from the Super Allowance or current cost adjustment deductions.

SECTION 18. The enactment of subsection 29 (4) parallels the deferral of income tax allowed in the Federal Act to certain foreign corporations that have undertaken corporate reorganizations.

SECTION 19. The enactment of subsection 32 (4) disallows the interest income from an eligible loan arising in an international banking centre business from qualifying for the Ontario foreign tax credit.

SECTION 20. The re-enactment of subsections 33a (1) and (2) provide transitional rules for the phasing out of the three-year small business corporate income tax exemption.

SECTION 21.—Subsection 1. The re-enactment of clause 40 (2) (b) is consequential upon amendments to the Federal Act and alters the rate of effective tax applied to capital gains dividends and capital gains redemptions for the purpose of calculating the capital gains refund of a mutual fund corporation.

Subsection 2. The re-enactment of clause 40 (2) (c) and the repeal of clause 40 (2) (d) of the Act are consequential upon changes that extend the time limits for reassessing corporations.

Subsection 3. The re-enactment of subsection 40 (4) is consequential upon amendments to the Federal Act which alter the current rate of tax and capital gains inclusion rate. The provision changes the gross-up rate used in calculating the "capital gains redemption" and in keeping a running "capital gains dividend account" for mutual fund corporations.

SECTION 22. The enactment of subsection 45 (3) implements the 1988 Budget proposal to disallow a CTA deduction for the new federal tax on investment income of life insurers.

SECTION 23.—Subsections 1 to 4. The amendment to clause 49 (1) (a) parallels and is consequential upon amendments to the Federal Act which provide an exemption for "master trusts" that hold investments exclusively for registered pension funds or plans and that elect to have the exemption apply. The amendment to clause 49 (1) (b), repeal of clause 49 (1) (c), re-enactment of subsection 49 (4) and enactment of subsection 49 (4a) generally parallel and are consequentially upon amendments to the Federal Act which limit the income tax exemption for insurers to that portion of taxable income which is related to farming risks.

Subsection 5. The re-enactment of subsection 49 (6) clarifies an existing policy difference from the Federal Act and makes the deemed disposition rules for foreign resource properties applicable for Ontario purposes.

SECTION 24.—Subsection 1. The re-enactment of subsection 53 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision requires bank mortgage subsidiaries to continue to use the special Loan and Trust formula to compute taxable paid-up capital even though the subsidiaries are no longer required to be registered under the *Loan and Trust Corporations Act, 1987*.

Subsections 2 and 3. The re-enactment of subsections 53 (5) and (6) provides for the exclusion of stock dividends received from a subsidiary or controlled corporation from the calculation of taxable paid-up capital.

SECTION 25. The re-enactment of subclause 54 (1) (c) (iv) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that deposits held by a bank mortgage subsidiary continue to qualify as eligible investments if held more than 120 days.

SECTION 26.—Subsection 1. The amendment to subsection 58 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provision ensures that bank mortgage subsidiaries continue to pay capital tax at the same rate as loan and trust corporations.

Subsection 2. The amendment to subsection 58 (3) implements the Treasurer's 1988 Budget proposal to increase the capital tax rate for loan and trust corporations and bank mortgage subsidiaries for a taxation year to four-fifths of 1 per cent from three-fifths of 1 per cent.

SECTION 27.— Subsection 1. The amendment to subsection 59 (3) is consequential upon the enactment of the *Loan and Trust Corporations Act, 1987*. The provisions ensure that the formula for allocating taxable capital outside Ontario currently used by loan and trust corporations continues to be applicable to bank mortgage subsidiaries.

Subsection 2. The amendment to subsection 59 (3) is consequential upon the increase in the capital tax rate for loan and trust corporations.

SECTION 28. The re-enactment of section 60 repeals the previous minimum annual capital tax of \$50 and exempts corporations from capital tax if total assets and gross revenue as recorded in the books and records do not exceed \$1,000,000.

SECTION 29. The re-enactment of subsections 61 (1), (2) and (4) and the repeal of subsections 61 (5) and (6) implement the Treasurer's 1988 Budget proposal for a new capital tax rate structure.

SECTIONS 30 and 31. The amendments to sub-subclauses 61a (2) (a) (ii) (A) and 61a (2) (b) (i) (B) and subsection 63 (1) change internal cross-references due to changes to the capital tax rate structure.

The re-enactment of subsection 63 (2) increases the flat rate of capital tax paid by specified types of corporations from \$50 to \$100 unless they are exempt.

SECTION 32. The amendment to section 64 is consequential upon the repeal of section 60 and provides generally for the apportionment of capital tax where the taxation year of a corporation is less than 365 days.

SECTION 33. The amendment to section 65 recognizes that the minimum \$50 capital tax has been eliminated where an exempt corporation is subject to tax for part of a year.

SECTION 34. The repeal of subsection 66 (9) of the Act removes the provision which deems the taxation year of every insurance company to end on the 31st day of December.

SECTION 35. The re-enactment of subsections 67 (1) and (1a) and enactment of subsections (1b), (1c) and (1d) eliminate references to special small corporations and provide an exemption from the requirement to deliver a return for certain

Canadian-controlled private corporations that filed a return under the Federal Act and had no taxable income or tax payable for the taxation year. The exemption does not apply where the corporation is claiming a loss carry back to a previous taxation year. The amendment to subsection 67 (3) changes a subsection reference consequential upon renumbering in the section.

SECTION 36.—Subsections 1 and 2. The re-enactment of subsections 68 (1) and (2) increases the penalties for failure to deliver a return.

The enactment of subsections 68 (3), (3a) and (4a) parallels Federal Act amendments which increase the prosecution penalty for tax evasion and create a saving provision which provides that where a person has been convicted of tax evasion, that person is not liable to administrative penalties for the same offence unless assessed before the prosecution proceedings had commenced.

The re-enactment of subsection 68 (4) parallels and is consequential upon increases in the penalty in the Federal Act for gross negligence to the greater of \$100 and 50 per cent of the tax attributable to the understated income or any other subject of tax.

Subsection 3. The enactment of subsections 68 (6) and (7) parallel and are consequential upon amendments to the Federal Act which levy a penalty for repeated failure to report in a return an amount required to be included in computing income. The penalty is 25 per cent of the unreported amount.

SECTION 37. The re-enactment of sub-subclauses 70 (2) (a) (i) (A) and 70 (2) (a) (ii) (A) provide authority for charging interest on deficient instalments based on actual tax payable.

The re-enactment of subclause 70 (2) (b) (i) eliminates the due date requirements for the payment of tax for special small corporations.

SECTION 38. The re-enactment of subsection 72 (5a) is consequential upon the repeal of the special small corporation concept.

SECTION 39.—Subsection 1. The re-enactment of clause 73 (1) (b) eliminates the assessment requirements for special small corporations.

Subsection 2. The re-enactment of subsection 73 (3) is consequential upon the addition of the general anti-avoidance provision. The subsection extends certain provisions relating to assessments to a notice of determination issued in respect of a determination of tax consequences made under the general anti-avoidance rule.

Subsection 3. The re-enactment of sub-subclause 73 (7) (a) (iv) (A) of the Act is consequential on the addition of the definition of normal reassessment period in proposed subsection 73 (6a) of the Act.

Subsection 4. Part of subsection 73 (7) of the Act is re-enacted to make minor revisions to terminology.

Subsection 5. Clause 73 (7) (b) of the Act is re-enacted to add certain circumstances in which the extended time limits for issuing reassessments may apply.

Subsections 6 and 7. Clause 73 (7) (b) and subclause 73 (7) (c) (i) are re-enacted consequential to the addition of the definition of normal reassessment period in proposed subsection 73 (6a) of the Act.

Subsection 8. New subsections 73 (2a), (2b) and (4a) are consequential on the addition of the general anti-avoidance provision. Subsection 73 (2a) allows the Minister to issue a notice of determination. Under subsection 73 (4a) the determination is binding on both the Minister and the corporation, subject to

the corporation's right of objection and appeal and the Minister's power to make a redetermination.

Subsection 9. Subsection 73 (6a) is added to the Act to define the normal reassessment period for a corporation.

Subsection 10. New subsection 73 (7b) of the Act provides a deemed assessment date for corporations that do not file a return under subsection 67 (1a) of the Act. New subsection 73 (7c) of the Act states that subsection 73 (7b) does not apply if the Minister sends an original notice of assessment.

Subsection 11. New subsection 73 (7d) of the Act limits reassessments under clause 73 (7) (b) to matters specifically described in that clause.

SECTION 40.—Subsection 1. The amendment to subsection 75 (1) eliminates the requirements to make refunds to special small corporations.

Subsection 2. The re-enactment of clause 75 (1) (b) of the Act is consequential on changes to the time limits in subsection 73 (7) for reassessing corporations.

SECTION 41. The re-enactment of subsection 77 (1) and enactment of subsection (1a) generally extend the objection and appeal procedures to assessments or determinations made under the general anti-avoidance provision subject to the exception contained in subsection 85 (3).

SECTION 42. The amendments to subsections 85 (2), (3) and (5) relate to the addition of the general anti-avoidance provision. Subsection 85 (2) provides that the corporation and the Minister will be bound by the resolution to an objection or an appeal at the federal level to a specified assessment. Subsection 85 (3) removes the right to file an Ontario notice of objection to a specified assessment which has been objected to at the federal level. Subsection 85 (5) provides a definition for "specified assessment".

SECTION 43. The amendment to subsection 86 (1) eliminates the authority of the Minister to remove books and records and retain them until they are produced in a court hearing. The repeal of subsection 86 (4) eliminates the authority of the Minister to, with the permission of a judge, enter premises and search and seize documents.

SECTION 44. The amendments to subsections 88 (1) and (2) increase the court fines from \$25 per day to \$200 per day for failure to file a return, failure to keep books and records, hindering an audit or investigation and failure to produce information and books and records.

SECTION 45. The re-enactment of subsection 91 (1) of the Act permits the communication of information to the Ministry of Treasury and Economics and the Government of Canada for use in the development and evaluation of tax policy. The re-enactment of subsection 91 (2) increases the fine for breach of confidentiality from \$200 to \$2,000.

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(2) Clause 1 (1) (ja) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(3) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, chapter 11, section 1, is further amended by adding the following clause:

(ab) subsection 248 (7) of the *Income Tax Act* (Canada) does not apply for the purposes of this Act.

(4) Sub-subclause 1 (2) (d) (iv) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 1, is repealed and the following substituted:

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), subsection 14 (3), section 20, paragraphs 37 (1) (d) and (e), subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 66.8, paragraph 67.1 (2) (d), paragraph 84 (1) (c.3), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 110 (1) (k), 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k), section 248 and subsection 258 (5) of the *Income Tax Act* (Canada) for the purposes of this Act.

(5) Subsection 1 (7) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 39,

section 1, is amended by adding at the end “and regulations related to this subsection may have retroactive application if they so state”.

(6) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1, 1985, chapter 11, section 1, 1986, chapter 39, section 1 and 1988, chapter 42, section 1, is further amended by adding the following subsections:

(1a) Section 194 of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being the Statutes of Canada, 1988, chapter 55, applies for the purposes of this Act with respect to the end of taxation years of private corporations and in the application thereof,

Private
corporation
year-end
election

(a) references therein to “the said Act” shall be read as references to the *Income Tax Act* (Canada);

(b) any election made thereunder by a private corporation shall be deemed,

(i) to be an election made under the *Income Tax Act* (Canada) for the purposes of the application of subsection 1 (4), and

(ii) to have been made under both that Act and this Act; and

(c) any fiscal period referred to therein shall be the same for the purposes of the *Income Tax Act* (Canada) and this Act.

(8) Where a receipt is obtained from the addressee on the delivery of anything required or permitted by this Act to be delivered by registered mail, the delivery shall be deemed to have been made by registered mail for the purposes of this Act, and a “registered letter” includes any letter deemed by this subsection to have been delivered by registered mail.

Deemed
delivery by
registered
mail

2. The Act is amended by adding the following section:

Definitions

5a.—(1) In this section and in subsection 73 (2a),

“avoidance transaction” means any transaction,

(a) that, but for this section, would result directly or indirectly in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit, or

(b) that is part of a series of transactions which would result directly or indirectly in a tax benefit but for this section, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit;

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable by a corporation under this Act or under the *Income Tax Act* (Canada) or an increase in a refund of tax or other amount under this Act or under the *Income Tax Act* (Canada);

“tax consequences”, to a corporation, means the amount of,

(a) the corporation’s income, taxable income, taxable income earned in a jurisdiction other than Ontario, taxable income earned in Canada or taxable income earned in Canada in a jurisdiction other than Ontario,

(b) the corporation’s paid-up capital, taxable paid-up capital, taxable paid-up capital that is deemed to be used by the corporation in a jurisdiction outside Ontario, paid-up capital employed in Canada, taxable paid-up capital employed in Canada or taxable paid-up capital employed in Canada that is deemed to be used by the corporation in a jurisdiction outside Ontario,

(c) any gross premium referred to in Part IV that is payable to the corporation or its agent or agents,

(d) any amount, other than an amount referred to in clause (a), (b) or (c), payable by or refundable to the corporation under this Act or that is relevant for the purposes of determining any other amount referred to in this subsection;

“transaction” includes an arrangement or event.

(2) If a transaction is an avoidance transaction, the tax consequences to a corporation shall be determined in a manner that is reasonable in the circumstances in order to deny the tax benefit under this Act that would otherwise result directly or indirectly from the transaction, or from a series of transactions that includes the transaction.

Determination of tax consequences

(3) Subsection (2) does not apply to a transaction if it is reasonable to consider that the transaction would not result directly or indirectly in a misuse or abuse of the provisions of this Act, having regard to the provisions of this Act, other than this section, read as a whole.

Saving

(4) Without restricting the generality of subsection (2), in any determination thereunder of the tax consequences of a transaction to a corporation,

Nature of determination

(a) any deduction in computing an amount referred to in clause (a), (b), (c) or (d) of the definition of “tax consequences” in subsection (1) may be allowed or disallowed in whole or in part;

(b) any deduction referred to in clause (a), any income or loss or other amount used in the determination of any amount payable or refundable under this Act may be allocated to any person;

(c) the nature of any payment or other amount may be recharacterized; and

(d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

(5) If a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to a transaction has been sent to a corporation, or a notice of determination under subsection 73 (2a) has been sent to the corporation, any other corporation is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2), or make a determination under subsection 73 (2a), with respect to the transaction.

Consequential adjustments

(6) On receipt of a request by a corporation under subsection (5), the Minister shall consider the request and make an assessment or a determination under subsection 73 (2a) with respect to the corporation, despite the expiry of any time limit under subsection 73 (7), except that an assessment or determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Duty of the Minister

Notice of
assessment,
etc.

(7) The tax consequences to any corporation after the application of this section shall be determined only through a notice of assessment, reassessment or additional assessment, or through a notice of determination under subsection 73 (2a), involving the application of this section.

3. Section 7 of the Act is repealed and the following substituted:

Interpretation

7. The taxable income of a corporation for a taxation year is its income for the taxation year plus the additions required by Division C and less the deductions permitted by Division C.

4.—(1) Subsection 12 (2) of the Act is repealed and the following substituted:

Inventory

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act, the amount determined by a corporation for the purposes of that Act as the value of property described in an inventory shall apply for the purposes of this Act, except that if the Minister is of the opinion that the value has been incorrectly determined by the corporation, the Minister may determine the value under section 10 of that Act for the purposes of this Act.

(2) Subsection 12 (6) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 6, is repealed and the following substituted:

Management
fees, rents,
royalties and
similar
payments to
non-residents

(6) Every corporation shall include in its income from a business or property for a taxation year an amount equal to 5/15.5 of all payments deducted in computing its income for the taxation year that are paid or payable to a non-resident person with whom the corporation was not dealing at arm's length in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or similar payment; or
- (c) a right in or to the use of,
 - (i) a motion picture film,
 - (ii) a film or video tape for use in connection with television, other than solely in connection with and as part of a news program produced in Canada, or
 - (iii) where the amount is paid or payable after the 31st day of December, 1988, any other means of reproduction for use in connection with television, other than solely in connection with and as part of a news program produced in Canada.

(6aa) Subsection (6) does not apply in respect of a payment paid or payable to a non-resident person if the non-resident person is a corporation liable for tax imposed by this Act and the amount of the payment has been included in computing the corporation's taxable income earned in Canada.

Saving

(3) Subsection 12 (7) of the Act is amended by striking out that portion before clause (a) and substituting the following:

(7) Paragraphs 20 (1) (a) and (v.1) of the *Income Tax Act* (Canada) are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Deductions
allowed

(4) Clause 12 (7) (c) of the Act is repealed.

(5) Clause 12 (7) (d) of the Act is repealed and the following substituted:

(d) such amount as is allowed to the corporation by the regulations in respect of oil or gas resources in Canada or mineral resources in Canada.

Resource
allowance

(6) Subsection 12 (9b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, is repealed and the following substituted:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act,

Banks

- (a) despite subclause 1 (2) (d) (vi), the amounts referred to in subparagraphs 26 (1) (c) (i) and 26 (2) (c) (i) of the *Income Tax Act* (Canada) shall be the amounts that were deductible under subsection 26 (2) of that Act in computing the income of the bank for the taxation years referred to in those subparagraphs for the purposes of that Act, and not the amounts that were deductible under subsection 26 (2) of that Act as that subsection applied for the purposes of this Act in computing the bank's income for those years for the purposes of this Act;
- (b) no amount shall be deducted under paragraph 26 (2) (a), (b), (c) or (e) of that Act, for the purpose of computing the income of a bank for a taxation year for the purposes of this Act, in excess of the amount deducted by the bank under that paragraph for the purposes of computing its income for the taxation year for the purposes of that Act, unless all amounts deductible by the bank under that paragraph have been deducted in computing its income

for a previous taxation year or years for the purposes of that Act; and

- (c) the reference to subsections 26 (1) and (2) of that Act in subsection 26 (4) of that Act shall be deemed not to be a reference to those subsections as they applied for the purposes of this Act under the predecessor of this subsection.

(7) Subsections 12 (14) and (15) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, are repealed.

(8) Section 12 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2, 1984, chapter 29, section 2, 1985, chapter 11, section 6 and 1986, chapter 39, section 2, is further amended by adding the following subsections:

Loans or
lending assets

(6c) In the application of paragraph 18 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "this Part" shall be read as a reference to Part II of this Act.

Net reserve
adjustment
and inclusion

(9c) In the application of section 12.3 and subsection 20 (26) of the *Income Tax Act* (Canada) for the purposes of this Act, the prescribed amount of a corporation's net reserve inclusion referred to in section 12.3 and the prescribed amount of a corporation's net reserve adjustment referred to in subsection 20 (26) are the amounts prescribed by the regulations under this Act.

Federal Act
not
applicable

(10a) Section 33.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Interest and
property tax
transition
rule

(18) In the application of subsection 18 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 10 (23) of the Statutes of Canada, 1988, chapter 55, as it applies for the purposes of the application of subsection 10 (6) of that Act (which repealed and re-enacted subsection 18 (2) of the *Income Tax Act* (Canada)), applies for the purposes of this Act.

Idem

(19) In the application of subsections 18 (2.3) and (2.4) of the *Income Tax Act* (Canada) for the purposes of this Act, any reference therein to "the Minister" shall be read as a reference to the Minister of National Revenue.

5. The Act is further amended by adding the following sections:

Definitions

12a.—(1) In this section,

"amalgamated corporation" means a corporation that is a new corporation for the purposes of section 87 of the *Income Tax Act* (Canada);

"base period", of a corporation for a particular taxation year, means the three previous taxation years of the corporation or, where the corporation has had fewer than three previous taxation years, the period commencing on the first day of its first taxation year and ending immediately before the particular taxation year, except that,

- (a) if the corporation is an amalgamated corporation that, after the amalgamation, has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of a predecessor corporation commenced, and

(ii) shall end immediately before the particular taxation year, or

- (b) if the corporation was a parent corporation in a winding-up to which subsection 88 (1) of the *Income Tax Act* (Canada) applied and has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of the parent corporation or of a subsidiary corporation commenced, and

(ii) shall end immediately before the particular taxation year;

"contract payment" has the meaning given to that expression by subsection 127 (9) of the *Income Tax Act* (Canada);

"eligible qualified expenditure" means a qualified expenditure made after the 20th day of April, 1988;

"eligible research property" means research property acquired after the 20th day of April, 1988;

"expenditure base", of a corporation for a particular taxation year, means the ratio of the number of days in the taxation year after the 20th day of April, 1988, to the number of days in the corporation's base period for the particular taxation year, multiplied by the amount if any by which the aggregate of,

- (a) all qualified expenditures made by the corporation during the base period, and
- (b) all amounts paid by the corporation during the base period that may reasonably be considered to be repayments of amounts referred to in clause (d) received by the corporation before or during the base period,

exceeds the aggregate of,

- (c) all amounts each of which was deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in determining the amount of tax payable for a taxation year if,

- (i) the amount deducted is reasonably attributable to a qualified expenditure made by the corporation in or before the base period, and

- (ii) the amount deducted was included under paragraph 12 (1) (i) of that Act, as applicable for the purposes of this Act, in computing the corporation's income for a taxation year ending in the base period or was first required to be included in an amount determined under paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii) or paragraph 37 (1) (e) of that Act, as applicable for the purposes of this Act, for a taxation year ending in the base period, and

- (d) all amounts received or receivable by the corporation in the base period as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to a qualified expenditure made by the corporation;

“government assistance” and “non-government assistance” have the meanings given to those expressions by subsection 127 (9) of the *Income Tax Act* (Canada);

“net eligible qualifying expenditures” of a corporation for a taxation year means that amount, if any, by which,

- (a) the aggregate of,
 - (i) all eligible qualified expenditures made by the corporation in the taxation year, and
 - (ii) all payments made by the corporation in the taxation year that may reasonably be considered to be repayments of amounts de-

scribed in subclause (b) (i) in respect of the taxation year or a prior taxation year,

exceeds,

- (b) the aggregate of,

- (i) all amounts received or receivable by the corporation in the taxation year as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to an eligible qualified expenditure made by the corporation,

- (ii) all amounts deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in computing tax payable under that Act for the previous taxation year, to the extent that the amounts deducted may reasonably be attributable to eligible qualified expenditures made by the corporation, and

- (iii) any amount by which the aggregate determined under this clause in respect of the immediately preceding taxation year exceeds the aggregate determined under clause (a) for the immediately preceding taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, means the fraction equal to “A/B” where,

- (a) “A” equals the amount of taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b and that would not be considered for the purposes of section 31 to have been earned in jurisdictions other than Ontario, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada, and

- (b) “B” equals the taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, except that the taxable income or the

taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada;

"parent corporation" means a corporation that is a "parent" under subsection 88 (1) of the *Income Tax Act* (Canada);

"predecessor corporation" means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes any corporation in respect of which a predecessor corporation was an amalgamated corporation;

"qualified expenditure" means an expenditure made by a corporation in respect of scientific research and experimental development carried on in Ontario that is a qualified expenditure for the purposes of section 127 of the *Income Tax Act* (Canada), or that would have been a qualified expenditure for the purposes of that section but for the corporation previously specifying the expenditure for the purposes of clause 194 (2) (a) (ii) (A) of that Act, but does not include an expenditure of the type described in subparagraph 37 (7) (f) (i), (ii) or (iii) of that Act;

"research property" means property of a corporation referred to in subparagraph 37 (1) (b) (i) of the *Income Tax Act* (Canada);

"scientific research and experimental development" has the meaning prescribed by regulation made under the *Income Tax Act* (Canada) for the purposes of paragraph 37 (7) (b) of that Act;

"specified percentage", in respect of a particular research property, is the percentage represented by the ratio of all amounts deducted under this section in respect of the research property to the capital cost of the research property;

"subsidiary corporation" means a corporation that is a "subsidiary" under subsection 88 (1) of the *Income Tax Act* (Canada).

Research and development super allowance

(2) A corporation may deduct a research and development super allowance in computing its income from a business for a taxation year in an amount calculated according to the following formula:

$$A = \frac{(B \times C) + (D \times E)}{F}$$

Where:

"A" is the research and development super allowance for the corporation for the taxation year;

"B" is 0.35 if the corporation is a Canadian-controlled private corpora-

tion throughout the taxation year, or 0.25 otherwise;

"C" is the lesser of the net eligible qualifying expenditures of the corporation for the taxation year or the expenditure base of the corporation for the taxation year;

"D" is 0.525 if the corporation is a Canadian-controlled private corporation throughout the taxation year, or 0.375 otherwise;

"E" is the amount, if any, by which the net eligible qualifying expenditures of the corporation for the taxation year exceed the expenditure base of the corporation for the taxation year;

"F" is the corporation's Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case "F" is 1.

(3) In determining the amount of the expenditure base of an amalgamated corporation for a particular taxation year, each amount determined under clauses (a) to (d) in the definition of "expenditure base" in subsection (1) includes all amounts described under those clauses in respect of any predecessor corporation in respect of all of its taxation years commencing in the base period of the amalgamated corporation.

Expenditure base after amalgamation

(4) If subsection 88 (1) of the *Income Tax Act* (Canada) applies with respect to a winding-up of a subsidiary corporation, the amount of the expenditure base of the parent corporation for a particular taxation year includes in each amount determined under clauses (a) to (d) in the definition of "expenditure base" in subsection (1), all amounts described under those clauses in respect of the subsidiary corporation in respect of its taxation years commencing in the base period of the parent corporation.

Expenditure base after winding-up into parent

(5) The expenditure base for a taxation year of a corporation that is associated with one or more other corporations during the taxation year shall be determined according to the following formula:

Associated corporations

$$B = A \times C / D$$

Where:

"B" is the expenditure base for the corporation for the particular taxation year;

"A" is the aggregate of,

(a) the expenditure base of the corporation that would be determined, but for this subsection, for the particular taxation year, and

- (b) the expenditure base, as determined without reference to this subsection, of each corporation with which the corporation was associated at any time during the particular taxation year, for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year;

“C” is the net eligible qualifying expenditures of the corporation for the particular taxation year; and

“D” is the aggregate of “C” and the net eligible qualifying expenditures of each corporation with which the corporation was associated at any time during the particular taxation year for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year.

Recapture on disposition of eligible research property

(6) Except as provided in subsections (7) and (8), if a corporation has disposed of an eligible research property at any time in a particular taxation year, there shall be included in computing the income of the corporation for the particular taxation year an amount equal to the lesser of,

- (a) the specified percentage of the lesser of the fair market value of the property at the time of the disposition or the capital cost to the corporation of the property immediately before the disposition; or
- (b) the amount, if any, by which the aggregate of,

- (i) all amounts deducted under this section by the corporation in computing its income for any taxation year commencing before the disposition and by any corporation associated with the corporation in the particular taxation year in computing its income for any taxation year ending in or before the particular taxation year,

exceeds the aggregate of,

- (ii) all amounts included by virtue of this subsection in respect of any other eligible research property in computing the income of the corporation for any taxation year commencing before the disposition, or in computing the income of any corporation associated with the corporation in the particular taxation year, for any taxation year ending in or before the particular taxation year.

(7) If subsection 85 (1) or 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to the disposition of eligible research property by a corporation to another corporation that is associated with the corporation in the taxation year in which the disposition occurs,

- (a) the property shall be deemed to be eligible research property of the other corporation; and
- (b) if the capital cost of the eligible research property to the corporation exceeds the proceeds of disposition, the capital cost of the eligible research property to the other corporation shall be deemed to be the amount that was the capital cost thereof to the corporation.

(8) If section 87 or subsection 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to an amalgamation of two or more corporations or to a winding-up of a subsidiary corporation, the amalgamated corporation or the parent corporation, as applicable, shall be deemed,

- (a) to have deducted, in computing its income for a taxation year commencing before the amalgamation or winding-up, all amounts deducted under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year; and
- (b) to have included, in computing its income for any taxation year commencing before the amalgamation or winding-up, all amounts included under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year.

(9) If section 87 of the *Income Tax Act* (Canada) is applicable in respect of an amalgamation of two or more corporations, the capital cost to the amalgamated corporation of any property that was eligible research property of a predecessor corporation and that becomes the property of the amalgamated corporation because of the amalgamation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be eligible research property of the amalgamated corporation.

Capital cost after amalgamation

(10) If a corporation has in a taxation year ending in a particular calendar year made a payment to another corporation associated with the corporation in the taxation year, the following rules apply:

Eligible qualified expenditures to associated corporation

1. If the payment would, but for this subsection, be a qualified expenditure

made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation, in a taxation year of the other corporation ending after the particular calendar year, shall be deemed, for the purposes of this section, not to have been paid at the time at which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

2. If the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, the payment shall be deemed for the purposes of this section, if it may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation in a taxation year following the year in which the payment was received by it, not to have been paid to the other corporation in the taxation year in which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

Where
previously
associated

(11) If another corporation was not associated with a particular corporation in a taxation year, but was associated with the particular corporation at any time during the particular corporation's base period for the taxation year, and all or substantially all of the property of the previously associated corporation that was used by it in carrying on any business during the base period was acquired in any manner by the particular corporation, or by one or more corporations associated with the particular corporation in the taxation year, the following rules apply for the purposes of this section:

1. The previously associated corporation shall be deemed to continue to exist, if it has ceased to exist.
2. The previously associated corporation shall be deemed to be associated with the particular corporation in the taxation year.
3. The previously associated corporation shall be deemed to have had taxation years ending on the same day in each year as the last day of its taxation year in which it was last associated with the particular corporation.

(12) Subsection (11) does not apply if,

Exception

- (a) the previously associated corporation was a predecessor corporation of the particular corporation, or of a corporation associated with the particular corporation in the taxation year; or
- (b) the previously associated corporation was a subsidiary corporation that was wound up before the taxation year and whose parent corporation was either the particular corporation or a corporation associated with the particular corporation in the taxation year.

(13) If a corporation is a member of a partnership, the following rules apply for the purposes of this section:

Corporate
partners

1. If the partnership makes, during a fiscal period of the partnership, an expenditure that would be a qualified expenditure if made by a corporation, an amount equal to the proportion of the expenditure that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period shall be deemed to be a qualified expenditure made by the corporation in the taxation year of the corporation in which that fiscal period ends.
2. If the partnership disposes of a property that would be an eligible research property of the partnership if the partnership were a corporation, an amount equal to the proportion of the amount that would be included under this section, as a result of the disposition, in the income of the partnership, if the partnership were a corporation, that the corporation's share of the income or loss of the partnership for the fiscal period in which the property was disposed of bears to the total income or loss of the partnership in the fiscal period shall be included in computing the income of the corporation for the taxation year in which the fiscal period ends.

(14) If a corporation is a limited partner in a limited partnership at any time in a taxation year and is deemed by subsection (13) to have made a qualified expenditure that is an eligible qualified expenditure, the following rules apply:

Maximum
deduction by
limited
partner

1. The maximum amount deductible under subsection (2) by the corporation in the taxation year in respect of the corporation's share of a qualified expenditure made by the limited partnership shall not exceed the aggregate of,

- i. the share of the income, if any, of the limited partnership included in the computation of income of the corporation for the taxation year, and
 - ii. any amount included in the income of the corporation for the taxation year under paragraph 2 of subsection (13).
2. If the amount determined under paragraph 1 is less than the amount that would have been otherwise deductible under this section for the taxation year by the corporation in respect of its share of the eligible qualified expenditure made by the limited partnership, the amount of the difference shall be included in the determination of the corporation's limited partnership loss for the taxation year in respect of the limited partnership as otherwise determined under subsection 96 (2.1) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act.
- (a) the eligible cost to the corporation at the end of the taxation year of the eligible assets of the corporation for the taxation year or a prior taxation year,
 - (b) the eligible cost to the corporation immediately before disposition of the eligible assets of the corporation for the taxation year or a prior taxation year that were acquired and disposed of by the corporation at any time before the end of the taxation year, and
 - (c) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in the determination of the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,
- exceeds,
- (d) the aggregate of,

Anti-avoidance

(15) A corporation is not entitled to a deduction under this section during a year with respect to any expenditure made by it if, as a result of a transaction or an event, or a series of transactions or events, it is reasonable for the Minister to believe that one of the principal purposes of the carrying out of such a transaction or event or series of transactions or events is to enable the corporation to claim a deduction under this section that would not otherwise be allowed.

Definitions

12b.—(1) In this section,

“amalgamated corporation” means a corporation that is a “new corporation” for the purposes of section 87 of the *Income Tax Act* (Canada);

“eligible asset”, of a corporation, means prescribed manufacturing and processing machinery or equipment acquired by the corporation after the 31st day of December, 1988 and before the 1st day of January, 1992, or prescribed pollution control equipment acquired by the corporation after the 17th day of May, 1989, that,

- (a) has not been used by any person for any purpose before being acquired by the corporation,
- (b) is first used by the corporation in Ontario, and
- (c) is used by the corporation for the purpose of earning income from a business;

“eligible asset pool”, of a corporation for a taxation year, means the amount, if any, by which the aggregate of,

- (i) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (vii) or (viii) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,
- (ii) all amounts each of which is an amount included in the income of the corporation, or of a subsidiary corporation or a predecessor corporation, for the taxation year, or for a prior taxation year, under paragraph 12 (1) (t) of the *Income Tax Act* (Canada), as made applicable for the purposes of this Act, in respect of an eligible asset, and
- (iii) all amounts each of which is the amount of the eligible asset pool of the corporation for a prior taxation year in respect of which the corporation was entitled under this section to deduct an amount in computing its income;

“eligible assets of the corporation for the taxation year” means the eligible assets that were acquired by the corporation in the taxation year or a prior taxation year and in respect of which,

- (a) the taxation year is the first taxation year in which the corporation may include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax*

Act (Canada) in respect of those assets in the determination of the undepreciated capital cost of depreciable property of a prescribed class, and

- (b) no amount has been included under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) by a subsidiary corporation or predecessor corporation in the determination of the undepreciated capital cost of depreciable property of a prescribed class of the corporation for a taxation year;

“eligible cost”, to a corporation at a particular date of eligible assets of the corporation for a taxation year, means,

- (a) in respect of eligible assets that are prescribed manufacturing and processing machinery or equipment, the capital cost to the corporation of the assets at that date, and

- (b) in respect of eligible assets that are prescribed pollution control equipment acquired in a particular taxation year by the corporation, or by a subsidiary corporation or predecessor corporation, the lesser of,

- (i) the capital cost to the corporation of the assets at that date, or

- (ii) the amount by which,

- (A) \$20,000,000 multiplied by the ratio of the number of days in the particular taxation year to 365, or, if the particular taxation year commenced before the 18th day of May, 1989, by the ratio of the number of days in that taxation year after the 17th day of May, 1989, to 365,

exceeds,

- (B) the capital cost to the corporation of the eligible assets acquired in the particular year that have been included in the eligible asset pool of the corporation for a prior taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, has the same meaning as in subsection 12a (1);

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes a corporation in

respect of which a predecessor corporation was an amalgamated corporation;

“specified rate”, of a corporation for a taxation year, means the rate calculated according to the following formula:

$$A = 0.1 \times (B / E) + 0.15 \times (C / E) + 0.3 \times (D / E)$$

Where:

“A” is the specified rate of the corporation for the taxation year,

“B” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation before the 1st day of January, 1990,

“C” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1989 and before the 1st day of January, 1991,

“D” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1990,

“E” is the aggregate of “B”, “C” and “D”;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

(2) A corporation may deduct in computing its income from a business for a taxation year a current cost adjustment deduction calculated according to the following formula:

Current cost
adjustment
deduction

$$A = (B / C) \times D$$

Where:

“A” is the current cost adjustment deduction for the taxation year;

“B” is the corporation’s eligible asset pool for the taxation year;

“C” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “C” is 1; and

“D” is the corporation’s specified rate for the taxation year.

(3) If the Minister believes, reasonably, that the corporation has delayed the acquisition of an asset primarily for the purposes of either claiming a deduction under this section or claiming a deduction at a higher specified rate, the Minister may, for the purposes of determining a deduction under this section, deem the acquisition to have occurred on another date.

Date of
acquisition

Corporate
partners

(4) If a corporation is a member of a partnership that has acquired property in a particular fiscal period that would be an eligible asset under this section if acquired by a corporation on the date of acquisition by the partnership, the following rules apply for the purposes of this section:

1. The property shall be deemed to have been acquired jointly by the partners, not by the partnership, on the date the property was acquired by the partnership.
2. The capital cost to the corporation of its interest in the property for the purposes of this section is that proportion of the capital cost of the property to the partnership at the end of the fiscal period of the partnership during which the property was acquired that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period.
3. The property shall be deemed to be an eligible asset of the corporation for the taxation year in which the fiscal period of the partnership ends in which the partnership may first include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of the property in the determination of the undepreciated capital cost of depreciable property of a prescribed class.
4. The amount of the corporation's eligible asset pool for a taxation year is increased by an amount equal to the proportion of any repaid assistance, included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the partnership of depreciable property of a prescribed class at the end of the fiscal period of the partnership ending in the taxation year, that is the corporation's share of the income or loss of the partnership for the fiscal period and reduced by the same proportion of any amount included by the partnership under subparagraph 13 (21) (f) (viii) of that Act for the fiscal period in determining the undepreciated capital cost of the partnership's depreciable property of a prescribed class.

Amalgama-
tions and
winding-up

(5) If a corporation claiming a deduction under this section is an amalgamated corporation or a parent corporation, the following rules apply for the purposes of this section:

1. Each eligible asset acquired on a particular date by a subsidiary corporation or a predecessor corporation shall be

deemed to have been acquired by the corporation on the same date.

2. The capital cost of the asset to the corporation shall be deemed to be the capital cost thereof to the predecessor corporation or the subsidiary corporation.
3. An eligible asset pool of a subsidiary corporation or a predecessor corporation for a prior taxation year shall be deemed to be an eligible asset pool of the corporation for a prior taxation year.

(6) A corporation is not entitled to a deduction under this section with respect to an asset if the acquisition or use of the asset was part of or related to a series of transactions or events and it is reasonable for the Minister to believe that one of the principal purposes for the acquisition of the asset was for use by another person or for use outside Ontario.

Anti-
avoidance

6. Subsection 13 (4) of the Act is amended by adding the following clause:

- (e) if the property is an interest in a partnership,
 - (i) there shall be deducted in respect of each fiscal period of the partnership ending before that time all amounts deducted by the corporation for a taxation year commencing before that time,
 - (A) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (B) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation, and
 - (ii) there shall be added in respect of each fiscal period of the partnership ending before that time all amounts included in the income of the corporation for a taxation year commencing before that time under subsection 12a (14),

except to the extent that all or a portion of any such amounts may reasonably be considered to have been included in the corporation's limited partnership loss in respect of the partnership for the taxation year in which the fiscal period of the partnership ended.

7. The Act is further amended by adding the following section:

Reserve on
disposition of
resource
property

16a. For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act as they read on the 31st day of December, 1986 with respect to dispositions made by a corporation before the 1st day of January, 1987.

8.—(1) Subsection 18 (5) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed.

(2) Subsection 18 (7) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 7, is repealed and the following substituted:

Change in
control

(7) Subsections 66 (11) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Idem

(7a) Subsections 66 (11.4) and (11.5) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act with respect to acquisitions of Canadian resource properties.

(3) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by striking out “in sections 18a and 18b” in the amendment of 1988 and substituting “in sections 18a, 18b and 18c”.

(4) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by relettering clause (ia) as clause (ic) and by adding the following clauses:

(ga) “original owner”, of a Canadian resource property, means the person who would be the “original owner” of that property under paragraph 66 (15) (g.11) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property”, “foreign exploration and development expenses” and to subsections 66 (2), (3) and (4) and 66.7 (2) and (13) of that Act;

(ha) “predecessor owner”, of a Canadian resource property, means the person who would be the “predecessor owner” of that property under paragraph 66 (15) (g.4) of the *Income Tax Act* (Canada) if that paragraph

were read without the references therein to “foreign resource property” and to subsections 66.7 (2) and (15) of that Act;

(ia) “production”, from a Canadian resource property, has the meaning given to that expression by paragraph 66 (15) (h.01) of the *Income Tax Act* (Canada), except that with respect to iron ore, the production from a Canadian resource property means the iron ore produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent;

(ib) “reserve amount” has the meaning given to that expression by paragraph 66 (15) (h.02) of the *Income Tax Act* (Canada).

9.—(1) Clause 18a (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by adding at the beginning “subject to section 18d”.

(2) Subclause 18a (b) (iii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by inserting after “(xi)” in the second line “and (xiii)”.

(3) Section 18a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) the reference to the Minister in clause 66.1 (6) (a) (ii.1) (D) of the *Income Tax Act* (Canada) shall be read as a reference to the Minister of National Revenue.

10.—(1) Section 18b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “to (12.73)” in the first line and substituting “to (12.74)”.

(2) Clause 18b (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “(12.69) and (12.73)” in the second line and substituting “(12.69), (12.73) and (12.74)”.

(3) Section 18b of the Act is further amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) expenditures described in subparagraph 66.1 (6) (a) (i) or (ii.1) of that Act renounced before the 14th day of October, 1988 shall be deemed to have been renounced within ninety days after the 31st day of December, 1987.

11. The Act is further amended by adding the following sections:

18c. Section 66.7 of the *Income Tax Act* (Canada), other than subsections (2), (8), (13) and (15) and paragraphs (10) (f) and (h), is applicable for the purposes of this Act, except that in the application thereof,

- (a) references to "Canadian exploration and development expenses" shall be read as references to only Canadian exploration and development expenses incurred before the 20th day of May, 1981; and
- (b) the section shall be read without the references to "foreign exploration and development expenses", "foreign resource property" and "foreign resource properties".

18d. Subsection 66 (13.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the reference to paragraph 66.2 (2) (c) of that Act shall be deemed to include a reference to clause 18a (b).

18e. Section 66.8 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the foreign exploration and development expenses referred to in clause (1) (a) (i) (D) of that Act shall be limited to only those foreign exploration and development expenses that are deductible.

12. Section 20 of the Act is amended by adding the following subsections:

(3) In the application of section 67.3 of the *Income Tax Act* (Canada) for the purposes of this Act, references in paragraphs (c) and (d) thereof to "this Act" shall be read as references to the *Income Tax Act* (Canada).

(4) In the application of subsection 69 (13) of the *Income Tax Act* (Canada) for the purposes of this Act, the proceeds of disposition of a foreign resource property shall be deemed to be the cost amount to the corporation of the foreign resource property immediately before the amalgamation or merger.

13. Section 21 of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 7, is repealed and the following substituted:

21.—(1) If a person at any time confers a benefit on a corporation either directly or indirectly by any means, the amount of the benefit shall be included in computing the corporation's income or taxable income earned in Canada for the taxation year in which the benefit is conferred, to the extent that,

(a) the amount of the benefit is not otherwise included in the corporation's income or taxable income earned in Canada; and

(b) the amount of the benefit would be so included if the amount were a payment made directly by the person to the corporation and the corporation were resident in Canada.

(2) If it is established that a transaction was entered into by persons dealing at arm's length, in good faith and not pursuant to or as part of any other transaction, and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction shall be regarded for the purpose of this section as having conferred a benefit on a party with whom he or she was dealing.

14. Section 25 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, 1985, chapter 11, section 10, 1986, chapter 39, section 7 and 1988, chapter 42, section 10, is further amended by adding the following subsection:

(7) In the application of subsection 96 (2.1) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under paragraph 96 (2.1) (a) of that Act,

(a) there shall be added all amounts deducted by the corporation for the taxation year,

(i) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and

(ii) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and

(b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) in respect of dispositions made by the partnership.

15. The Act is further amended by adding the following section:

26a.—(1) A corporation that is required under paragraph 132.1 (1) (d) of the *Income Tax Act* (Canada) to include an amount in its income for a taxation year for the purposes of that Act shall include the amount in its income for the taxation year for the purposes of this Act.

(2) In computing the adjusted cost base to the corporation of a unit in a mutual fund trust, there shall be included any amount

Successor
rules

Proration of
"CDE" and
"COGPE"
for short
taxation
years

Limited
partnership
resource
expenditures

Application
of Federal
Act

Treatment of
foreign
resource
properties on
amalgamation

Benefit
conferred on
corporation

Arm's length

Limited
partnership
losses

Application
of Federal
Act

Mutual fund
trust unit

added to the adjusted cost base of the unit under subsection 132.1 (2) of that Act for the purposes of that Act.

16.—(1) Subsection 27 (2) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 10, is repealed and the following substituted:

(2) In the application of subsections 110.1 (2) and (3) of the *Income Tax Act* (Canada) for the purposes of this Act, a "receipt" includes a photostatic reproduction of the receipt.

(2) Subsection 27 (3) of the Act is repealed and the following substituted:

(3) In the application of the definition of "registered Canadian amateur athletic association" and "registered charity" in subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "Minister" shall be read as references to the Minister of National Revenue.

(3) Section 27 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8, 1985, chapter 11, section 11, 1986, chapter 39, section 8 and 1988, chapter 42, section 11, is further amended by adding the following subsections:

(10) In the application of paragraph 111 (4) (e) of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) the reference therein to the Minister shall be read as a reference to the Minister of National Revenue; and

(b) the paragraph shall be read without reference to the words "under this Part".

(11) In the application of subsections 111 (5.1), (5.2) and (5.3) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "this Part" shall be read as references to Part II of this Act.

(12) In the application of paragraph 111 (1) (e) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under clause 111 (1) (e) (ii) (B) of that Act,

(a) there shall be included all amounts deducted by the corporation for the taxation year under,

(i) section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in that fiscal period, and

(ii) section 12b in respect of the portion of the property of the partnership deemed to be eligible

assets acquired by the corporation; and

(b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) with respect to dispositions made by the partnership.

17. The Act is further amended by adding the following section:

27a.—(1) The Minister may direct that the maximum amount that may be deducted by a corporation in a taxation year under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in respect of a non-capital loss incurred in a particular taxation year, shall not exceed the amount determined under subsection (2) if,

(a) the corporation deducted an amount under section 12a or 12b, or both, in determining the amount of its non-capital loss for the particular taxation year and the Ontario allocation factor of the corporation for the taxation year in which an amount in respect of the loss is to be deducted is greater than 120 per cent of the Ontario allocation factor for the particular taxation year in which the loss was incurred; or

(b) the Minister has directed the maximum amount deductible in respect of the loss for a prior taxation year.

(2) If the Minister makes a direction under subsection (1) in respect of a loss to be deducted in a taxation year of a corporation, the maximum amount that may be deducted by the corporation in respect of a non-capital loss incurred in a particular taxation year shall be determined according to the following formula:

$$D = (A + B) - C$$

Where:

"D" is the maximum amount deductible by the corporation in the taxation year in respect of the non-capital loss incurred in the particular taxation year;

"A" is the amount by which the non-capital loss for the particular taxation year exceeds the total of any amounts deducted under section 12a or 12b or both sections for the particular taxation year;

"B" is the allocation adjustment as determined under clause (3) (c); and

"C" is the aggregate of all amounts, each of which is the amount by which the non-capital loss deducted under paragraph 111 (1) (a) of the *Income*

Reduction of
non-capital
loss
deductible

Maximum
amount

Receipts for
gifts to
charities, etc.

Interpretation

Idem

Idem

Limited
partnership
losses

Tax Act (Canada), as applicable for the purposes of this Act, in computing the taxable income of the corporation for a prior taxation year, exceeds the allocation adjustment in respect of the loss for the prior taxation year.

Idem

- (3) For the purposes of this section,
- (a) "Ontario allocation factor" has the same meaning as in subsection 12a (1);
- (b) the allocation factor for the taxation year in which the loss arose is the allocation factor of the corporation that incurred the loss in that year;
- (c) the allocation adjustment is the product obtained where the amount of a non-capital loss incurred in a particular taxation year attributable to amounts deducted under section 12a or 12b is multiplied by the ratio of the Ontario allocation factor for the particular taxation year to the Ontario allocation factor for the year for which the allocation adjustment is being determined; and
- (d) the amount of a non-capital loss incurred in a particular taxation year which is attributable to amounts deducted under section 12a or 12b is the amount by which the lesser of,
- (i) the non-capital loss for the particular taxation year, or
- (ii) the total of all amounts, each of which is an amount deducted under section 12a or 12b,
- exceeds,
- (iii) the aggregate of all amounts, each of which is the amount deducted under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in computing its taxable income for a taxation year prior to the taxation year for which the allocation adjustment is being determined, in respect of the non-capital loss incurred in the particular taxation year, multiplied by the ratio of the Ontario allocation factor for the taxation year in which the amount in respect of the loss was deducted to the Ontario allocation factor for the particular taxation year in which the loss was incurred.

18. Section 29 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, 1985, chapter 11, section 12 and 1988, chapter 42, section 12, is further amended by adding the following subsection:

(4) Section 115.1 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act where the purchaser referred to therein is not a non-resident individual or a non-resident partnership and, in the application thereof, references therein to the "Minister" shall be read as references to the Minister of National Revenue.

Tax deferral
for non-
resident
organization

19. Section 32 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 9 and 1985, chapter 11, section 15, is further amended by adding the following subsection:

(4) In this section, "foreign investment income" of a corporation for a taxation year does not include interest income attributable to a loan for any period in the year during which the loan was an "eligible loan" as defined in subsection 33.1 (1) of the *Income Tax Act* (Canada).

Idem

20. Subsection 33a (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 17, is repealed and the following substituted:

(1) There may be deducted from the tax otherwise payable by a corporation under this Part for the corporation's first, second or third taxation year ending after the date of its incorporation an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if,

New
enterprise
incentive

- (a) the corporation was incorporated after the 13th day of May, 1982 and before the 21st day of April, 1988;
- (b) the corporation commenced carrying on an active business in Canada before the 21st day of April, 1988; and
- (c) the corporation is eligible to claim and has claimed a deduction under section 125 of the *Income Tax Act* (Canada) from the tax otherwise payable by the corporation under that Act for the taxation year.

(2) For the purposes of subsection (1), a corporation incorporated after the 20th day of April, 1988 and before the 1st day of May, 1988 shall be deemed to have been incorporated before the 21st day of April, 1988 and to have commenced carrying on an active business in Canada before the 21st day of April, 1988 if,

Incorporation
before the
1st day of
May, 1988

- (a) arrangements for the incorporation of the corporation were substantially advanced and application for the incorporation of the corporation had been prepared and sent to the appropriate government authority prior to the 21st day of April, 1988;
- (b) one or more persons commenced carrying on an active business prior to the

21st day of April, 1988, in trust for the corporation to be incorporated; and

- (c) all agreements entered into before the date of incorporation of the corporation by the person or persons carrying on active business in trust for it were adopted by the corporation after its incorporation.

21.—(1) Clause 40 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, is repealed and the following substituted:

- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as,

(i) 10 1/3 per cent in its application to taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990, and

(ii) 11 5/8 per cent in its application to taxation years ending after the 31st day of December, 1989.

(2) Clauses 40 (2) (c) and (d) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 13, are repealed and the following substituted:

- (c) the reference to “paragraph 152 (4) (b) or (c)” in paragraph (b) thereof shall be read as “clause 73 (7) (b) or (c)”.

(3) Subsection 40 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11, section 19, is repealed and the following substituted:

(4) In the application of clauses 131 (6) (a) (i) (A) and 131 (6) (b) (ii) (C) of the *Income Tax Act* (Canada) for the purposes of this Act, the multiplication factor referred to therein shall be read as,

(a) “9 21/31 times” for taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990; and

(b) “8 56/93 times” for taxation years ending after the 31st day of December, 1989.

22. Section 45 of the Act is amended by adding the following subsection:

(3) Paragraph 138 (3) (g) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

23.—(1) Clause 49 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 14, is amended by striking out “(o.2) or (o.3)” in the third line and substituting “(o.2), (o.3), (o.4) or (t)”, and by adding at the end “or”.

(2) Clause 49 (1) (b) of the Act is amended by striking out “or” at the end.

(3) Clause 49 (1) (c) of the Act is repealed.

(4) Subsection 49 (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 16, is repealed and the following substituted:

(4) The rules in subsections 149 (2), (3), (4), (4.1), (4.2), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Application of rules in Federal Act

(4a) In the application of paragraph 149 (1) (t) and subsection 149 (4.1) of the *Income Tax Act* (Canada), references to the Superintendent of Financial Institutions shall be read as references to the Superintendent of Financial Institutions for Canada.

Idem

(5) Subsection 49 (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 14, is repealed and the following substituted:

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be read as a reference to Part II of this Act and paragraph 149 (10) (b) of that Act, including any predecessor of that paragraph, shall be read without reference to “foreign resource property”.

Idem

24.—(1) Subsection 53 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

(3) Despite subsection (1), the taxable paid-up capital for a taxation year of a corporation registered under the *Loan and Trust Corporations Act*, 1987, or that is a bank mortgage subsidiary as defined in section 1 of that Act, is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

Loan and trust companies, bank mortgage subsidiaries

(2) Subsection 53 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(5) In computing its taxable paid-up capital under subsection (2), a bank shall include all dividends, other than stock dividends, received from other corporations and shall exclude its share of all accumulated earnings and losses of other corporations.

Computation of bank's paid-up capital

(3) Subsection 53 (6) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

Idem

Federal investment tax not deductible

Computation of paid-up capital of loan and trust companies, bank mortgage subsidiaries

(6) In computing its taxable paid-up capital, a corporation referred to in subsection (3) shall include all dividends received from other corporations, other than stock dividends, and shall exclude its share of all accumulated earnings or losses of other corporations.

25. Subclause 54 (1) (c) (iv) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18 and amended by 1986, chapter 39, section 12, is repealed and the following substituted:

(iv) loans and advances that have been issued for a term of less than 120 days or that have been held by the corporation for a period of less than 120 days before the end of the taxation year are deemed not to be loans and advances to other corporations if the loans and advances are to a corporation, whether or not incorporated in Canada, that is,

(A) carrying on the business of a bank,

(B) a corporation registered under the *Loan and Trust Corporations Act*, 1987, or that would be required to be registered under that Act if it were carrying on business in Ontario, or

(C) a bank mortgage subsidiary as defined in section 1 of the *Loan and Trust Corporations Act*, 1987.

26.—(1) Subsection 58 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second line and substituting “referred to in subsection 53 (3)”.

(2) Subsection 58 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fifth line and substituting “four-fifths of 1 per cent”.

27.—(1) Subsection 59 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second and third lines and in the sixth and seventh lines and substituting in each instance “referred to in subsection 53 (3)”.

(2) Subsection 59 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fourth line and substituting “four-fifths of 1 per cent”.

28. Section 60 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 26, is repealed and the following substituted:

60. Despite subsections 58 (1) and 59 (1), no tax is payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), where neither the corporation's total assets at the end of the taxation year nor its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000.

Where no tax payable

29.—(1) Subsections 61 (1) and (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed and the following substituted:

(1) For the purposes of this section and section 60,

Definitions

“gross revenue”, of a corporation for a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the gross revenue of the partnership, as recorded in the books and records of the partnership for all fiscal periods of the partnership ending in or coinciding with the taxation year, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership;

“total assets”, of a corporation at the end of a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the total assets of the partnership at the end of the partnership's last fiscal period ending in or coinciding with the taxation year of the corporation, as recorded in the books and records of the partnership for the fiscal period, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership.

(2) Despite subsections 58 (1) and 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), is,

Flat tax

(a) the lesser of \$100 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, and

(ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year does not exceed \$1,000,000;

(b) the lesser of \$200 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, but neither its total assets nor its gross revenue exceed \$1,500,000, and

(ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year exceeds \$1,000,000 but does not exceed \$2,000,000;

(c) the lesser of \$500 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,500,000, and

(ii) the corporation's taxable paid-up capital as determined under Division B of this Part for the taxation year does not exceed \$2,000,000; and

(d) where the taxable paid-up capital of the corporation as determined under Division B of this Part for the taxation year exceeds \$2,000,000 but does not exceed \$2,300,000, the lesser of,

(i) the tax that would otherwise be payable under this Part, but for this subsection, and

(ii) the amount by which the tax that would otherwise be payable under this Part if no deduction was made under subsection 59 (1) exceeds 1.83 per cent of the amount by which \$2,300,000 exceeds the taxable paid-up capital.

(2) Subsection 61 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 16, is repealed and the following substituted:

(4) Section 60 and subsection (2) do not apply to a corporation if,

(a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$2,000,000; or

(b) the corporation is a member of a partnership or a connected partnership and the aggregate of,

(i) the taxable paid-up capital of the corporation, and

(ii) the aggregate of the shares of the taxable paid-up capital of the partnership or of the connected partnership that are allocated under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$2,000,000.

(3) Subsections 61 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed.

30.—(1) Sub-subclause 61a (2) (a) (ii) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by striking out “subsection 61 (1) or (2)” in the second and third lines and substituting “section 60 or subsection 61 (2)”.

(2) Sub-subclause 61a (2) (b) (i) (B) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by inserting after “section” in the third line “60 or”.

31.—(1) Subsection 63 (1) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out “section 58 or 60” in the tenth line and substituting “this Part”.

(2) Subsection 63 (2) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18 and amended by 1985, chapter 11, section 28, is repealed and the following substituted:

(2) Except as provided in section 60 and subsection (3), a family farm corporation, a family fishing corporation and every corporation referred to in sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of any tax otherwise payable under this Part, pay a tax of \$100.

Family
fishing and
family farm
corporations

32. Section 64 of the Act is amended by striking out “Subject to section 60” in the first line.

33. Section 65 of the Act is amended by striking out “except that the tax payable under this Part as reduced by this section shall in no case be less than \$50” in the sixth, seventh and eighth lines.

34. Subsection 66 (9) of the Act is repealed.

35.—(1) Subsection 67 (1), as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, and subsection (1a), as enacted by the Statutes of Ontario, 1985, chapter 11, section 29 and amended by 1986, chapter 39, section 14, of the Act are repealed and the following substituted:

Annual tax
return

(1) Every corporation shall deliver to the Minister on or before the last day of the sixth month following the end of the taxation year a return sufficient for the purposes of carrying out this Act.

Exception

(1a) Subsection (1) does not apply to a corporation that is exempt under subsection (1d) from the requirement to deliver a return for the taxation year.

Amended
return for
prior taxation
year

(1b) Every corporation that is not required under subsection (1) to deliver a return for a taxation year shall deliver the return within the time required under subsection (1) if, by reason of a loss sustained by the corporation in the taxation year, the corporation is delivering an amended return for a prior taxation year for the purposes of subsection 73 (8).

Notice or
demand

(1c) Every corporation upon receipt of a notice or demand in writing from the Minister, or from any officer of the Ministry of Revenue authorized by the Minister to make such a demand, shall deliver to the Minister a return for each taxation year specified in the notice or demand, sufficient for the purposes of carrying out this Act.

Exception to
requirement
to deliver a
return

(1d) A corporation, other than a bank, a corporation referred to in subsection 53 (3) or an insurance corporation to which Part IV applies, is exempt from the requirement to deliver a return for a taxation year to the Minister under subsection (1) if,

- (a) the corporation was a Canadian-controlled private corporation throughout the taxation year;
- (b) the corporation has filed a return for the taxation year with the Minister of National Revenue under Part I of the *Income Tax Act* (Canada);
- (c) the corporation had no taxable income under this Act for the taxation year; and
- (d) no tax was payable under this Act by the corporation for the taxation year.

(2) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is amended by striking out "Notwithstanding subsection (1)" in the first line and substituting "Despite subsection (1a)".

36.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) Every corporation or person who fails to deliver a return for a taxation year as and when required under section 67 shall pay a penalty of,

Penalty for
failure to
deliver return

- (a) an amount equal to 10 per cent of the tax unpaid when the return is required to be delivered, if the amount of unpaid tax payable by the corporation for the taxation year is less than \$10,000; and
- (b) \$1,000, if at the time the return is required to be delivered the amount of unpaid tax payable by the corporation for the taxation year is \$10,000 or more.

(2) Subsections 68 (2), (3) and (4) of the Act are repealed and the following substituted:

(2) No corporation is liable to a penalty under subsection (1) for failing to file a return as and when required under subsection 67 (1) if it is reasonable at the time when the corporation would otherwise be required to deliver a return under subsection 67 (1) to consider the corporation to be exempt under subsection 67 (1d) from the requirement to file the return.

Saving

(3) Every person is guilty of an offence who,

Offence,
false
statements

- (a) makes, participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade the payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of records or books of account;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, or assents to or acquiesces in the omission, to enter a material particular in records or books of account; or
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of taxes imposed by this Act.

(3a) Every person who is guilty of an offence under subsection (3) is, in addition to any penalty otherwise provided by this Act, liable on conviction to a fine of not less than the greater of \$500 and 50 per cent of the tax payable under this Act and sought to be evaded and not more than double the amount of such tax, or to imprisonment for a

Penalty

term of not more than two years, or to both the fine and the imprisonment.

Penalty for
false
statements

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") delivered or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income for the year, or other subject of tax reported by it in its return for the year, that portion of the understatement of income, or of any other subject of tax, for the year, as applicable, that is reasonably attributable to the false statement, and if the tax payable for the year under this Act were computed by subtracting from the deductions from tax otherwise payable by the corporation for the year such portion of any such deduction that may reasonably be attributable to the false statement,

exceeds,

- (b) the tax for the year that would be payable by the corporation under this Act had the tax payable for the year been assessed on the basis of the information provided in the return for the taxation year.

Application
of subs. (4)

(4a) Subsection (4) does not apply if the person has been convicted of an offence under subsection (3) for an offence related to the same evasion of or attempt to evade the payment of tax, unless a penalty is imposed upon the corporation under subsection (4) before the commencement of proceedings against the person under subsection (3).

(3) Section 68 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 30, is further amended by adding the following subsections:

Penalty for
repeated
failure to
report an
amount

(6) Every corporation that fails to report an amount required to be included in computing its income or other subject of tax in a return delivered under section 67 for a taxation year, and that has failed to report an amount required to be so included in any

return delivered under section 67 for any of the preceding three taxation years is liable to a penalty equal to 25 per cent of the amount, if any, by which,

- (a) the tax for the taxation year that would be payable by the corporation under this Act if its taxable income or other subject of tax for the taxation year were computed by including the amount the corporation failed to report,

exceeds,

- (b) the tax for the taxation year that would be payable by the corporation under this Act had the tax been assessed on the basis of only the information provided in the return for the taxation year.

(7) Subsection (6) does not apply if the corporation has been assessed a penalty under subsection (4) with respect to a false statement concerning the same amount. Idem

37.—(1) Sub-subclause 70 (2) (a) (i) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year, or

(2) Sub-subclause 70 (2) (a) (ii) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year under sub-subclause (i) (A), or

(3) Subclause 70 (2) (b) (i) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 31, is repealed and the following substituted:

- (i) subject to subsection (2a), on or before the last day of the third month following the taxation year if,
 - (A) the corporation was a Canadian-controlled private corporation throughout the taxation year, and
 - (B) its taxable income for the taxation year immediately before that taxation year did not exceed \$200,000, or

38. Subsection 72 (5a) of the Act, as re-enacted by the Statutes of Ontario, 1985,

chapter 11, section 32, is repealed and the following substituted:

Application
of subs. (5)

(5a) Subsection (5) does not apply if the tax payable by the corporation by virtue of the reassessment is greater than the tax previously assessed and the corporation has failed to submit, in the return required by subsection 67 (1), (1b) or (1c), the information required by subsection 67 (2).

39.—(1) Clause 73 (1) (b) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 33, is repealed and the following substituted:

(b) assess the tax for the taxation year and the interest and penalties payable, if any, on the basis of the corporation's return for the taxation year; and

(2) Subsection 73 (3) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20 and 1988, chapter 42, section 18, is repealed and the following substituted:

Provisions
applicable

(3) Paragraphs 56 (1) (l) and 60 (o) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, apply with necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) do not apply to determinations made under subsection (2) or (2a) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the Corporation.

(3) Sub-subclause 73 (7) (a) (iv) (A) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(4) Subsection 73 (7) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, 1988, chapter 42, section 18 and subsection (3) of this section, is further amended by striking out the portion before clause (b) and substituting the following:

(7) The Minister may at any time assess tax, interest or penalties, or notify in writing

When
assessment
may issue

any person who has delivered a return for a taxation year that no tax is payable for the taxation year, and may,

(a) at any time, if the corporation, or a person delivering a return for the taxation year or acting on its behalf,

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing a return or in supplying any information under this Act,

(ii) has failed to deliver any return for the taxation year required to be delivered under section 67 or has failed to file financial statements with the return,

(iii) has been negligent in supplying or in failing to supply any information required under this Act,

(iv) has filed with the Minister a waiver in the prescribed form on or before the later of,

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(B) the latest day such a waiver could be filed under this Act for any previous taxation year,

(v) has filed a waiver under the *Income Tax Act* (Canada) within the time and in the form required by subsection 152 (4) of that Act, or

(vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act.

(5) Clause 73 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20 and amended by 1988, chapter 42, section 18, is repealed and the following substituted:

(b) within seven years from the day of mailing of a notice of the original assessment or a notification that no tax is payable for the taxation year where,

(i) the corporation has claimed a deduction for the taxation year under section 41 or section 111 of the *Income Tax Act* (Canada), as applicable for the purposes of this Act,

(ii) as a consequence of a transaction involving the corporation and a

non-resident person with whom it was not dealing at arm's length, there is reason to assess or reassess the corporation's tax for any relevant taxation year, or

- (iii) as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, there is reason to assess or reassess the corporation's tax for any relevant taxation year; and

(6) Clause 73 (7) (b) of the Act, as re-enacted by subsection (5) of this section, is amended by striking out the portion before subclause (i) and substituting the following:

- (b) before the day that is three years after the expiration of the normal re-assessment period for the corporation in respect of the taxation year where,

(7) Subclause 73 (7) (c) (i) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

- (i) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(8) Section 73 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22, 1984, chapter 29, section 20, 1985, chapter 11, section 33 and 1988, chapter 42, section 18, is further amended by adding the following subsections:

(2a) Where at any time the Minister ascertains the tax consequences to a corporation under section 5a with respect to a transaction, the Minister may determine any amount that is relevant for the purposes of computing the amount of the tax consequences and send to the corporation with all due dispatch a notice of determination stating the amount so determined.

(2b) A determination of an amount shall not be made under subsection (2a) at a time where the amount is relevant only for the purposes of computing the tax consequences to a corporation for a taxation year ending before the time.

(4a) Subject to the corporation's rights of objection and appeal in respect of the determination and to any redetermination made by the Minister, a determination made by the

Minister under subsection (2a) with respect to a corporation is binding on both the Minister and the corporation for the purpose of calculating the tax consequences to the corporation for any taxation year.

(9) Section 73 of the Act is further amended by adding the following subsection:

(6a) For the purposes of subsection (7), the normal re-assessment period for a corporation in respect of a taxation year is,

Normal re-assessment period

- (a) if at the end of the year the corporation is a mutual fund corporation or a corporation other than a Canadian-controlled private corporation, the period that ends five years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year; or

- (b) in any other case, the period that ends four years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year.

(10) Section 73 of the Act is further amended by adding the following subsections:

(7b) Where a corporation is exempt under subsection 67 (1d) from the requirement to deliver a return under subsection 67 (1) for the taxation year, an original notice of assessment shall be deemed, for the purposes of subsection (7), to be sent to the corporation on the day that is six months after the end of the taxation year.

Deemed assessment

(7c) Subsection (7b) does not apply if the Minister sends an original notice of assessment to the corporation for the taxation year within fifty-four months after the end of the taxation year.

Exception

(11) Section 73 of the Act is further amended by adding the following subsection:

(7d) A reassessment, an additional assessment or an assessment may be made under clause (7) (b) after the normal reassessment period for the corporation in respect of the taxation year only to the extent that it may reasonably be regarded as relating to,

Limitation

- (a) the deductions referred to in subclause (7) (b) (i);
- (b) the transaction referred to in subclause (7) (b) (ii); or
- (c) the additional payment or reimbursement referred to in subclause (7) (b) (iii).

Notice of determination

No determination for prior years

Determination binding

40.—(1) Subsection 75 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 34, is further amended by striking out the portion before clause (a) and substituting the following:

Refunds

(1) If a return required to be delivered by a corporation under section 67 for a taxation year is delivered within four years from the end of the taxation year, the Minister,

(2) Clause 75 (1) (b) of the Act is repealed and the following substituted:

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within the period determined under clause 73 (7) (b) or (c), as the case may be, within which the Minister may reassess tax payable by the corporation for the year.

41. Subsection 77 (1) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 21, is repealed and the following substituted:

Notice of
Objection

(1) Subject to subsection 85 (3), a corporation that objects to an assessment may within 180 days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

Assessment
includes
determination

(1a) For the purposes of this section and sections 78 to 85, an assessment includes a determination made by the Minister under subsection 73 (2a) and a notice of assessment includes a notice of determination, a reassessment includes a redetermination by the Minister and an additional assessment includes an additional determination.

42.—(1) Subsection 85 (2) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by striking out the portion before clause (a) and substituting the following:

Corporation
and Minister
bound

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies or a specified assessment that has met the conditions under clause (3) (b), be bound by,

(2) Subsection 85 (3) of the Act is repealed and the following substituted:

Application
of ss. 77 to
83

(3) Sections 77 to 83 do not apply,

- (a) to a reassessment referred to in subsection (2); and
- (b) to a specified assessment if the corporation has served a notice of objection to the assessment or determination

issued under the *Income Tax Act* (Canada), referred to in clause (5) (c), in which the same issues have been raised as would have been raised in an objection to the specified assessment.

(3) Section 85 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by adding the following subsection:

(5) For the purposes of this Part, an assessment in respect of a particular taxation year, or a part thereof, is a specified assessment if,

Specified
assessment,
defined

- (a) the assessment or the part thereof, as applicable, states on its face that it is a specified assessment under this section;
- (b) the assessment or the part thereof, as applicable, is an assessment or determination involving the application of section 5a in respect of the taxation year; and
- (c) a notice of assessment or determination has been issued to the corporation under the *Income Tax Act* (Canada) involving the application of section 245 of that Act in respect of the same taxation year or transaction.

43.—(1) Subsection 86 (1) of the Act is amended by adding “and” at the end of clause (b), by striking out “and” at the end of clause (c) and by striking out clause (d).

(2) Subsection 86 (4) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 24, is repealed.

44.—(1) Subsection 88 (1) of the Act is amended by striking out “\$25” in the fourth line and substituting “\$200”.

(2) Subsection 88 (2) of the Act is amended by striking out “\$25” in the third line and substituting “\$200”.

45. Subsections 91 (1) and (2) of the Act are repealed and the following substituted:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

Confiden-
tiality

- (a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;

(b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;

(c) to his or her legal counsel; or

(d) with the consent of the person to whom the information or material relates.

Offence and penalty

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Commencement and application

46.—(1) Except as provided in subsections (2) to (54), this Act comes into force on the day it receives Royal Assent.

Commencement, November 13, 1981

(2) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsections 111 (5.1) and (5.2) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to acquisitions of control occurring after the 12th day of November, 1981 other than those occurring before the 1st day of January, 1983 where the arrangements therefor were substantially advanced and evidenced in writing on the 12th day of November, 1981.

Idem

(3) Subsection 49 (6) of the Act, set out in subsection 23 (5), shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations that became taxable after the 12th day of November, 1981.

Idem

(4) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the deletion of subsection 149 (10) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations which became subject to tax after the 12th day of November, 1981.

Commencement, January 1, 1985

(5) Clause 1 (1) (ab) of the Act, set out in subsection 1 (3), shall be deemed to have come into force on the 1st day of January, 1985, and applies to anything sent by mail after the 31st day of December, 1984.

Idem

(6) Section 7 of the Act, set out in section 3, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years ending after the 31st day of December, 1984.

Idem

(7) Subsection 29 (4) of the Act, set out in section 18, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years commencing after the 31st day of December, 1984.

Commencement, January 1, 1986

(8) Subsections 12 (6) and (6aa) of the Act, set out in subsection 4 (2), shall be deemed to have come into force on the 1st day of January, 1986, and apply to amounts paid or payable after the 31st day of December, 1985.

(9) Section 16a of the Act, set out in section 7, shall be deemed to have come into force on the 1st day of January, 1987, and applies to dispositions made by a corporation before the 1st day of January, 1987.

Commencement, January 1, 1987

(10) Clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (o.4) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1987, and applies to taxation years ending after the 31st day of December, 1986.

Idem

(11) Subsection 18 (7a) of the Act, set out in subsection 8 (2), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of Canadian Resource Properties occurring after the 15th day of January, 1987 other than those occurring before the 1st day of January, 1988, where the corporation acquiring the property was obliged on the 15th day of January, 1987 to acquire the property under the terms of a written agreement entered into before the 16th day of January, 1987.

Commencement, January 16, 1987

(12) Subsection 20 (4) of the Act, set out in section 12, shall be deemed to have come into force on the 16th day of January, 1987, and applies to amalgamations and mergers occurring after the 15th day of January, 1987.

Idem

(13) Subsection 27 (10) of the Act, set out in subsection 16 (3), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(14) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsection 111 (5.3) of the Federal Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(15) Section 34, which refers to subsection 66 (9) of the Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to taxation years ending after the 15th day of January, 1987.

Idem

(16) Subsection 8 (1), which refers to subsection 18 (5) of the Act, shall be deemed to

Commencement, February 18, 1987

have come into force on the 18th day of February, 1987, and applies to taxation years ending after the 17th day of February, 1987.

Idem

(17) The following shall be deemed to have come into force on the 18th day of February, 1987, and apply to taxation years ending after the 17th day of February, 1987:

- (a) subsection 18 (7) of the Act, set out in subsection 8 (2);
- (b) the amendments to subsection 18 (14) of the Act, set out in subsections 8 (3) and (4);
- (c) the amendment to subclause 18a (b) (iii) of the Act, set out in subsection 9 (2); and
- (d) section 18c of the Act, set out in section 11.

Commence-
ment, March
20, 1987

(18) The amendments to section 18b of the Act, set out in subsection 10 (1), and clause 18b (a) of the Act, set out in subsection 10 (2), shall be deemed to have come into force on the 20th day of March, 1987, and apply after the 19th day of March, 1987.

Commence-
ment, April
1, 1987

(19) The amendments to clauses 18a (b) and (c) and the enactment of clause 18a (d) of the Act, set out in subsection 9 (3), shall be deemed to have come into force on the 1st day of April, 1987, and apply after the 31st day of March, 1987.

Commence-
ment, June
6, 1987

(20) The amendment to clause 18a (b) of the Act, set out in subsection 9 (1), and section 18d of the Act, as enacted in section 11, shall be deemed to have come into force on the 6th day of June, 1987, and apply to taxation years commencing after the 5th day of June, 1987.

Commence-
ment, June
18, 1987

(21) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to section 66.8 of the Federal Act, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(22) Section 18e of the Act, set out in section 11, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(23) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to paragraph 67.1 (2) (d) of the Federal Act, on the 18th day of June, 1987, and applies to amounts incurred after the 17th day of June, 1987 in respect of food and beverages consumed and entertainment enjoyed after the 31st day of December, 1987.

Idem

(24) The following shall be deemed to have come into force on the 18th day of June, 1987, and apply to taxation years that com-

mence after the 17th day of June, 1987 and end after the 31st day of December, 1987:

- (a) subsection 12 (9b) of the Act, set out in subsection 4 (6);
- (b) subsections 12 (6c) and (9c) of the Act, set out in subsection 4 (8);
- (c) subsection 20 (3) of the Act, set out in section 12; and
- (d) subsection 45 (3) of the Act, set out in section 22.

(25) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to subsection 258 (5) of the Federal Act, on the 19th day of June, 1987, and applies after the 18th day of June, 1987.

Commence-
ment, June
19, 1987

(26) Subsection 12 (10a) of the Act, set out in subsection 4 (8), and subsection 32 (4) of the Act, set out in section 19, shall be deemed to have come into force on the 18th day of December, 1987, and apply to corporations in respect of all taxation years commencing after the 17th day of December, 1987.

Commence-
ment,
December 18,
1987

(27) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 84 (1) (c.3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies with respect to conversions of contributed surplus into paid-up capital after the 31st day of December, 1987.

Commence-
ment,
January 1,
1988

(28) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraphs 13 (7.1) (e), 37 (1) (e), 110 (1) (k) and subparagraph 13 (21) (f) (vii) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to taxation years ending after the 31st day of December, 1987.

Idem

(29) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to subsection 14 (3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to acquisitions of property after the 31st day of December, 1987.

Idem

(30) The following shall be deemed to have come into force on the 1st day of January, 1988, and apply to taxation years ending after the 31st day of December, 1987:

Idem

- (a) subclause 1 (1) (aa) (i) of the Act, set out in subsection 1 (1);
- (b) subsection 12 (2) of the Act, set out in subsection 4 (1);
- (c) subsection 12 (7) of the Act, set out in subsection 4 (3);
- (d) clause 12 (7) (c) of the Act, set out in subsection 4 (4);

- (e) subsections 12 (14) and (15) of the Act, set out in subsection 4 (7);
- (f) subsections 12 (18) and (19) of the Act, set out in subsection 4 (8);
- (g) subsections 26a (1) and (2) of the Act, set out in section 15; and
- (h) subsections 27 (2) and (3) of the Act, set out in subsections 16 (1) and (2).

Idem

(31) Section 18b of the Act, set out in subsection 10 (3), shall be deemed to have come into force on the 1st day of January, 1988, and applies to expenditures incurred after the 31st day of December, 1987.

Idem

(32) Clause 73 (7) (b) of the Act, set out in subsection 39 (5), shall be deemed to have come into force on the 1st day of January, 1988, and applies to assessments and reassessments relating to transactions entered into, payments paid and reimbursements received after the 31st day of December, 1987.

Commence-
ment, April
5, 1988

(33) The following shall be deemed to have come into force on the 5th day of April, 1988, and apply to taxation years ending after the 4th day of April, 1988:

- (a) subsection 53 (3) of the Act, set out in subsection 24 (1);
- (b) the amendment of subsection 58 (3) of the Act, set out in subsection 26 (1); and
- (c) the amendment of subsection 59 (3) of the Act, set out in subsection 27 (1).

Idem

(34) Subclause 54 (1) (c) (iv) of the Act, set out in section 25, shall be deemed to have come into force on the 5th day of April, 1988, and applies to loans or advances issued after the 4th day of April, 1988.

Commence-
ment, April
21, 1988

(35) Clause 13 (4) (e) of the Act, set out in section 6, shall be deemed to have come into force on the 21st day of April, 1988, and applies to fiscal periods ending after the 20th day of April, 1988.

Idem

(36) The amendments of subsection 58 (3) of the Act, set out in subsection 26 (2), and subsection 59 (3) of the Act, set out in subsection 27 (2), shall be deemed to have come into force on the 21st day of April, 1988, and apply to taxation years ending after the 20th day of April, 1988 except that for taxation years that commence before the 21st day of April, 1988 and end after the 20th day of April, 1988, the rate increase shall be prorated according to the number of days in the taxation year subsequent to the 20th day of April, 1988.

Idem

(37) The following shall be deemed to have come into force on the 21st day of April, 1988, and apply with respect to taxation years ending after the 20th day of April, 1988:

- (a) clause 1 (1) (ja) of the Act, set out in subsection 1 (2);
- (b) section 12a of the Act, set out in section 5;
- (c) subsection 25 (7) of the Act, set out in section 14;
- (d) subsection 27 (12) of the Act, set out in subsection 16 (3);
- (e) section 27a of the Act, set out in section 17;
- (f) subsections 33a (1) and (2) of the Act, set out in section 20;
- (g) section 60 of the Act, set out in section 28;
- (h) subsections 61 (1) and (2) of the Act, set out in subsection 29 (1);
- (i) subsection 61 (4) of the Act, set out in subsection 29 (2);
- (j) the repeal of subsections 61 (5) and (6) of the Act, set out in subsection 29 (3);
- (k) the amendment of sub-subclause 61a (2) (a) (ii) (A) of the Act, set out in subsection 30 (1);
- (l) the amendment of sub-subclause 61a (2) (b) (i) (B) of the Act, set out in subsection 30 (2);
- (m) the amendment of subsection 63 (1) of the Act, set out in subsection 31 (1);
- (n) the amendment of section 64 of the Act, set out in section 32;
- (o) the amendment of section 65 of the Act, set out in section 33;
- (p) subsections 67 (1), (1a), (1b), (1c) and (1d) of the Act, set out in subsection 35 (1);
- (q) the amendment of subsection 67 (3) of the Act, set out in subsection 35 (2);
- (r) subclause 70 (2) (b) (i) of the Act, set out in subsection 37 (3);
- (s) subsection 72 (5a) of the Act, set out in section 38;
- (t) clause 73 (1) (b) of the Act, set out in subsection 39 (1);
- (u) subsections 73 (7b) and (7c) of the Act, set out in subsection 39 (10); and
- (v) subsection 75 (1) of the Act, set out in section 40.

(38) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the increase in the tax payable, shall be deemed to have come into force on the 21st day of April, 1988, and applies with respect to taxation years ending after the 20th day of April, 1988.

Idem

Commence-
ment, May 1,
1988

(39) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 37 (1) (d) of the Federal Act, shall be deemed to have come into force on the 1st day of May, 1988, and is effective for expenditures made after the 30th day of April, 1988.

Commence-
ment, July 1,
1988

(40) Clause 40 (2) (b) of the Act, set out in subsection 21 (1), and subsection 40 (4), set out in subsection 21 (3), shall be deemed to have come into force on the 1st day of July, 1988, and apply to taxation years ending after the 30th day of June, 1988.

Commence-
ment,
September
13, 1988

(41) Section 5a of the Act, set out in section 2, shall be deemed to have come into force on the 13th day of September, 1988, and for transactions assessed under subsection 245 (1) of the Federal Act, applies to transactions entered into after the 12th day of September, 1988 other than for,

(a) transactions that are part of a series of transactions, determined without reference to subsection 248 (10) of the Federal Act, commencing before the 13th day of September, 1988 and completed before the 1st day of January, 1989; or

(b) any one or more transactions, one of which was entered into before the 13th day of April, 1988, that were entered into by a taxpayer in the course of an arrangement and in respect of which the taxpayer received from the Department of National Revenue (Canada), before the 13th day of April, 1988, a confirmation or opinion in writing with respect to the tax consequences thereof,

and for transactions not assessed under subsection 245 (1) of the Federal Act, section 5a applies to transactions entered into on or after the date on which this Act receives Royal Assent.

Idem

(42) Subsections 21 (1) and (2) of the Act, set out in section 13, shall be deemed to have come into force on the 13th day of September, 1988, and apply with respect to benefits conferred after the 12th day of September, 1988.

Idem

(43) Subsections 73 (2a), (2b) and (4a) of the Act, set out in subsection 39 (8), and subsection 73 (3) of the Act, set out in subsection 39 (2), shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

Idem

(44) Subsections 77 (1) and (1a) of the Act, set out in section 41, shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

Idem

(45) Subsection 85 (2) of the Act, set out in subsection 42 (1), shall be deemed to have

come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(46) Subsection 85 (3) of the Act, set out in subsection 42 (2), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(47) Subsection 85 (5) of the Act, set out in subsection 42 (3), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day September, 1988.

(48) Subsection 1 (1a) of the Act, set out in subsection 1 (6), shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years of Canadian-controlled private corporations that commence before the 1st day of January, 1988 and to taxation years of other private corporations that commence before the 1st day of July, 1988.

(49) Clause 12 (7) (d) of the Act, set out in subsection 4 (5), and section 12b of the Act, set out in section 5, shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(50) The amendment of clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (t) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years ending after the 31st day of December, 1988.

(51) The amendment of clause 49 (1) (b) of the Act, set out in subsection 23 (2), and the repeal of clause 49 (1) (c) of the Act, set out in subsection 23 (3), and the enactment of subsections 49 (4) and (4a) of the Act, set out in subsection 23 (4), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(52) Subsection 53 (5) of the Act, set out in subsection 24 (2), and subsection 53 (6) of the Act, set out in subsection 24 (3), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

(53) The following shall be deemed to have come into force on the 28th day of April, 1989:

(a) the amendment of clause 40 (2) (c) of the Act, set out in subsection 21 (2);

(b) the repeal of clause 40 (2) (d) of the Act, set out in subsection 21 (2); and

Idem

Idem

Commence-
ment,
January 1,
1989

Idem

Idem

Idem

Idem

Commence-
ment, April
28, 1989

(c) clause 75 (1) (b) of the Act, as re-enacted by subsection 40 (2).

Idem

(54) The following shall be deemed to have come into force on the 28th day of April, 1989, other than with respect to a taxation year of a corporation for which a notice of an original assessment in respect of the corporation for the taxation year, or a notification that no tax is payable by the corporation for the taxation year, was mailed before the 28th day of April, 1986,

(a) the amendment of sub-subclause 73 (7) (a) (iv) (A) of the Act, set out in subsection 39 (3);

(b) the re-enactment of clause 73 (7) (b) of the Act, set out in subsection 39 (6);

(c) the re-enactment of subclause 73 (7) (c) (i) of the Act, set out in subsection 39 (7);

(d) the enactment of subsection 73 (6a) of the Act, set out in subsection 39 (9).

47. The short title of this Act is the *Corporations Tax Amendment Act, 1990*. Short title

Bill 10

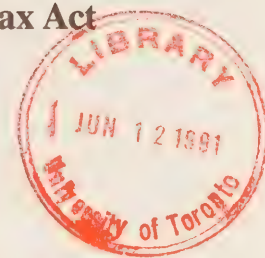
1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 10

(Chapter 22
Statutes of Ontario, 1990)

An Act to amend the Corporations Tax Act



The Hon. S. Wark-Martyn

Minister of Revenue

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subclause 1 (1) (aa) (i) of the *Corporations Tax Act*, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(2) Clause 1 (1) (ja) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 1, is repealed.

(3) Subsection 1 (1) of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1 and 1985, chapter 11, section 1, is further amended by adding the following clause:

(ab) subsection 248 (7) of the *Income Tax Act* (Canada) does not apply for the purposes of this Act.

(4) Sub-subclause 1 (2) (d) (iv) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 1, is repealed and the following substituted:

(A) the other provision shall be deemed to apply for the purposes of the application of sections 12 and 12.2, subsection 13 (7), paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii), subsection 14 (3), section 20, paragraphs 37 (1) (d) and (e), subparagraphs 53 (2) (c) (vi), (vii) and (viii) and 53 (2) (h) (ii), (iii) and (iv), sections 56 and 60, subparagraph 66.1 (6) (b) (xi), section 66.8, paragraph 67.1 (2) (d), paragraph 84 (1) (c.3), section 88, paragraph 95 (1) (f), subsection 96 (2.1), paragraphs 110 (1) (k), 111 (1) (e) and 127.2 (6) (a), subsections 127.2 (8) and 127.3 (6), paragraph 133 (8) (b), subsection 137 (4.3), section 138, paragraph 138.1 (1) (k), section 248 and subsection 258 (5) of the *Income Tax Act* (Canada) for the purposes of this Act.

(5) Subsection 1 (7) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 39,

section 1, is amended by adding at the end “and regulations related to this subsection may have retroactive application if they so state”.

(6) Section 1 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 1, 1983, chapter 29, section 1, 1984, chapter 29, section 1, 1985, chapter 11, section 1, 1986, chapter 39, section 1 and 1988, chapter 42, section 1, is further amended by adding the following subsections:

(1a) Section 194 of *An Act to amend the Income Tax Act, the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977 and certain related Acts*, being the Statutes of Canada, 1988, chapter 55, applies for the purposes of this Act with respect to the end of taxation years of private corporations and in the application thereof,

Private
corporation
year-end
election

(a) references therein to “the said Act” shall be read as references to the *Income Tax Act* (Canada);

(b) any election made thereunder by a private corporation shall be deemed,

(i) to be an election made under the *Income Tax Act* (Canada) for the purposes of the application of subsection 1 (4), and

(ii) to have been made under both that Act and this Act; and

(c) any fiscal period referred to therein shall be the same for the purposes of the *Income Tax Act* (Canada) and this Act.

(8) Where a receipt is obtained from the addressee on the delivery of anything required or permitted by this Act to be delivered by registered mail, the delivery shall be deemed to have been made by registered mail for the purposes of this Act, and a “registered letter” includes any letter deemed by this subsection to have been delivered by registered mail.

Deemed
delivery by
registered
mail

2. The Act is amended by adding the following section:

Definitions

5a.—(1) In this section and in subsection 73 (2a),

“avoidance transaction” means any transaction,

- (a) that, but for this section, would result directly or indirectly in a tax benefit, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit, or
- (b) that is part of a series of transactions which would result directly or indirectly in a tax benefit but for this section, unless the transaction may reasonably be considered to have been undertaken or arranged in good faith primarily for purposes other than to obtain the tax benefit;

“tax benefit” means a reduction, avoidance or deferral of tax or other amount payable by a corporation under this Act or under the *Income Tax Act* (Canada) or an increase in a refund of tax or other amount under this Act or under the *Income Tax Act* (Canada);

“tax consequences”, to a corporation, means the amount of,

- (a) the corporation’s income, taxable income, taxable income earned in a jurisdiction other than Ontario, taxable income earned in Canada or taxable income earned in Canada in a jurisdiction other than Ontario,
- (b) the corporation’s paid-up capital, taxable paid-up capital, taxable paid-up capital that is deemed to be used by the corporation in a jurisdiction outside Ontario, paid-up capital employed in Canada, taxable paid-up capital employed in Canada or taxable paid-up capital employed in Canada that is deemed to be used by the corporation in a jurisdiction outside Ontario,
- (c) any gross premium referred to in Part IV that is payable to the corporation or its agent or agents,
- (d) any amount, other than an amount referred to in clause (a), (b) or (c), payable by or refundable to the corporation under this Act or that is relevant for the purposes of determining any other amount referred to in this subsection;

“transaction” includes an arrangement or event.

(2) If a transaction is an avoidance transaction, the tax consequences to a corporation shall be determined in a manner that is reasonable in the circumstances in order to deny the tax benefit under this Act that would otherwise result directly or indirectly from the transaction, or from a series of transactions that includes the transaction.

Determination of tax consequences

(3) Subsection (2) does not apply to a transaction if it is reasonable to consider that the transaction would not result directly or indirectly in a misuse or abuse of the provisions of this Act, having regard to the provisions of this Act, other than this section, read as a whole.

Saving

(4) Without restricting the generality of subsection (2), in any determination thereunder of the tax consequences of a transaction to a corporation,

Nature of determination

- (a) any deduction in computing an amount referred to in clause (a), (b), (c) or (d) of the definition of “tax consequences” in subsection (1) may be allowed or disallowed in whole or in part;
- (b) any deduction referred to in clause (a), any income or loss or other amount used in the determination of any amount payable or refundable under this Act may be allocated to any person;
- (c) the nature of any payment or other amount may be recharacterized; and
- (d) the tax effects that would otherwise result from the application of other provisions of this Act may be ignored.

(5) If a notice of assessment, reassessment or additional assessment involving the application of subsection (2) with respect to a transaction has been sent to a corporation, or a notice of determination under subsection 73 (2a) has been sent to the corporation, any other corporation is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment, reassessment or additional assessment applying subsection (2), or make a determination under subsection 73 (2a), with respect to the transaction.

Consequential adjustments

(6) On receipt of a request by a corporation under subsection (5), the Minister shall consider the request and make an assessment or a determination under subsection 73 (2a) with respect to the corporation, despite the expiry of any time limit under subsection 73 (7), except that an assessment or determination may be made under this subsection only to the extent that it may be reasonably regarded as relating to a transaction referred to in subsection (5).

Duty of the Minister

Notice of
assessment,
etc.

(7) The tax consequences to any corporation after the application of this section shall be determined only through a notice of assessment, reassessment or additional assessment, or through a notice of determination under subsection 73 (2a), involving the application of this section.

3. Section 7 of the Act is repealed and the following substituted:

Interpretation

7. The taxable income of a corporation for a taxation year is its income for the taxation year plus the additions required by Division C and less the deductions permitted by Division C.

4.—(1) Subsection 12 (2) of the Act is repealed and the following substituted:

Inventory

(2) In the application of section 10 of the *Income Tax Act* (Canada) for the purposes of this Act, the amount determined by a corporation for the purposes of that Act as the value of property described in an inventory shall apply for the purposes of this Act, except that if the Minister is of the opinion that the value has been incorrectly determined by the corporation, the Minister may determine the value under section 10 of that Act for the purposes of this Act.

(2) Subsection 12 (6) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 6, is repealed and the following substituted:

Management
fees, rents,
royalties and
similar
payments to
non-residents

(6) Every corporation shall include in its income from a business or property for a taxation year an amount equal to 5/15.5 of all payments deducted in computing its income for the taxation year that are paid or payable to a non-resident person with whom the corporation was not dealing at arm's length in respect of,

- (a) a management or administration fee or charge;
- (b) a rent, royalty or similar payment; or
- (c) a right in or to the use of,
 - (i) a motion picture film,
 - (ii) a film or video tape for use in connection with television, other than solely in connection with and as part of a news program produced in Canada, or
 - (iii) where the amount is paid or payable after the 31st day of December, 1988, any other means of reproduction for use in connection with television, other than solely in connection with and as part of a news program produced in Canada.

(6aa) Subsection (6) does not apply in respect of a payment paid or payable to a non-resident person if the non-resident person is a corporation liable for tax imposed by this Act and the amount of the payment has been included in computing the corporation's taxable income earned in Canada.

Saving

(3) Subsection 12 (7) of the Act is amended by striking out that portion before clause (a) and substituting the following:

(7) Paragraphs 20 (1) (a) and (v.1) of the *Income Tax Act* (Canada) are not applicable in computing the income of a corporation for a taxation year from a business or property for the purposes of this Act, and in lieu thereof there may be deducted such of the following amounts as are applicable:

Deductions
allowed

(4) Clause 12 (7) (c) of the Act is repealed.

(5) Clause 12 (7) (d) of the Act is repealed and the following substituted:

(d) such amount as is allowed to the corporation by the regulations in respect of oil or gas resources in Canada or mineral resources in Canada.

Resource
allowance

(6) Subsection 12 (9b) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, is repealed and the following substituted:

(9b) In the application of section 26 of the *Income Tax Act* (Canada) for the purposes of this Act,

Banks

- (a) despite subclause 1 (2) (d) (vi), the amounts referred to in subparagraphs 26 (1) (c) (i) and 26 (2) (c) (i) of the *Income Tax Act* (Canada) shall be the amounts that were deductible under subsection 26 (2) of that Act in computing the income of the bank for the taxation years referred to in those subparagraphs for the purposes of that Act, and not the amounts that were deductible under subsection 26 (2) of that Act as that subsection applied for the purposes of this Act in computing the bank's income for those years for the purposes of this Act;
- (b) no amount shall be deducted under paragraph 26 (2) (a), (b), (c) or (e) of that Act, for the purpose of computing the income of a bank for a taxation year for the purposes of this Act, in excess of the amount deducted by the bank under that paragraph for the purposes of computing its income for the taxation year for the purposes of that Act, unless all amounts deductible by the bank under that paragraph have been deducted in computing its income

for a previous taxation year or years for the purposes of that Act; and

- (c) the reference to subsections 26 (1) and (2) of that Act in subsection 26 (4) of that Act shall be deemed not to be a reference to those subsections as they applied for the purposes of this Act under the predecessor of this subsection.

(7) Subsections 12 (14) and (15) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 2, are repealed.

(8) Section 12 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 3, 1982, chapter 19, section 1, 1983, chapter 29, section 2, 1984, chapter 29, section 2, 1985, chapter 11, section 6 and 1986, chapter 39, section 2, is further amended by adding the following subsections:

Loans or
lending assets

(6c) In the application of paragraph 18 (1) (s) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to "this Part" shall be read as a reference to Part II of this Act.

Net reserve
adjustment
and inclusion

(9c) In the application of section 12.3 and subsection 20 (26) of the *Income Tax Act* (Canada) for the purposes of this Act, the prescribed amount of a corporation's net reserve inclusion referred to in section 12.3 and the prescribed amount of a corporation's net reserve adjustment referred to in subsection 20 (26) are the amounts prescribed by the regulations under this Act.

(10a) Section 33.1 of the *Income Tax Act* (Canada) is not applicable in computing the income of a corporation for a taxation year for the purposes of this Act.

Interest and
property tax
transition
rule

(18) In the application of subsection 18 (2) of the *Income Tax Act* (Canada) for the purposes of this Act, subsection 10 (23) of the Statutes of Canada, 1988, chapter 55, as it applies for the purposes of the application of subsection 10 (6) of that Act (which repealed and re-enacted subsection 18 (2) of the *Income Tax Act* (Canada)), applies for the purposes of this Act.

Idem

(19) In the application of subsections 18 (2.3) and (2.4) of the *Income Tax Act* (Canada) for the purposes of this Act, any reference therein to "the Minister" shall be read as a reference to the Minister of National Revenue.

5. The Act is further amended by adding the following sections:

Definitions

12a.—(1) In this section,

"amalgamated corporation" means a corporation that is a new corporation for the purposes of section 87 of the *Income Tax Act* (Canada);

"base period", of a corporation for a particular taxation year, means the three previous taxation years of the corporation or, where the corporation has had fewer than three previous taxation years, the period commencing on the first day of its first taxation year and ending immediately before the particular taxation year, except that,

- (a) if the corporation is an amalgamated corporation that, after the amalgamation, has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of a predecessor corporation commenced, and

(ii) shall end immediately before the particular taxation year, or

- (b) if the corporation was a parent corporation in a winding-up to which subsection 88 (1) of the *Income Tax Act* (Canada) applied and has had fewer than three taxation years ending before the particular taxation year, the base period,

(i) shall commence on the earliest day within the thirty-six-month period immediately before the particular taxation year on which a taxation year of the parent corporation or of a subsidiary corporation commenced, and

(ii) shall end immediately before the particular taxation year;

"contract payment" has the meaning given to that expression by subsection 127 (9) of the *Income Tax Act* (Canada);

"eligible qualified expenditure" means a qualified expenditure made after the 20th day of April, 1988;

"eligible research property" means research property acquired after the 20th day of April, 1988;

"expenditure base", of a corporation for a particular taxation year, means the ratio of the number of days in the taxation year after the 20th day of April, 1988, to the number of days in the corporation's base period for the particular taxation year, multiplied by the amount if any by which the aggregate of,

- (a) all qualified expenditures made by the corporation during the base period, and
- (b) all amounts paid by the corporation during the base period that may reasonably be considered to be repayments of amounts referred to in clause (d) received by the corporation before or during the base period,

exceeds the aggregate of,

- (c) all amounts each of which was deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in determining the amount of tax payable for a taxation year if,

- (i) the amount deducted is reasonably attributable to a qualified expenditure made by the corporation in or before the base period, and

- (ii) the amount deducted was included under paragraph 12 (1) (t) of that Act, as applicable for the purposes of this Act, in computing the corporation's income for a taxation year ending in the base period or was first required to be included in an amount determined under paragraph 13 (7.1) (e), subparagraph 13 (21) (f) (vii) or paragraph 37 (1) (e) of that Act, as applicable for the purposes of this Act, for a taxation year ending in the base period, and

- (d) all amounts received or receivable by the corporation in the base period as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to a qualified expenditure made by the corporation;

“government assistance” and “non-government assistance” have the meanings given to those expressions by subsection 127 (9) of the *Income Tax Act* (Canada);

“net eligible qualifying expenditures” of a corporation for a taxation year means that amount, if any, by which,

- (a) the aggregate of,
 - (i) all eligible qualified expenditures made by the corporation in the taxation year, and
 - (ii) all payments made by the corporation in the taxation year that may reasonably be considered to be repayments of amounts de-

scribed in subclause (b) (i) in respect of the taxation year or a prior taxation year,

exceeds,

- (b) the aggregate of,

- (i) all amounts received or receivable by the corporation in the taxation year as government assistance, non-government assistance or a contract payment, to the extent that each amount may reasonably be considered to relate to an eligible qualified expenditure made by the corporation,

- (ii) all amounts deducted by the corporation under subsection 127 (5) of the *Income Tax Act* (Canada) in computing tax payable under that Act for the previous taxation year, to the extent that the amounts deducted may reasonably be attributable to eligible qualified expenditures made by the corporation, and

- (iii) any amount by which the aggregate determined under this clause in respect of the immediately preceding taxation year exceeds the aggregate determined under clause (a) for the immediately preceding taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, means the fraction equal to “A/B” where,

- (a) “A” equals the amount of taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b and that would not be considered for the purposes of section 31 to have been earned in jurisdictions other than Ontario, except that the taxable income or the taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada, and

- (b) “B” equals the taxable income of the corporation, or the taxable income of the corporation earned in Canada if the corporation is a corporation to which subsection 2 (2) applies, that would be determined for the taxation year if no amount were deductible under this section or section 12b, except that the taxable income or the

taxable income earned in Canada shall be deemed to be \$1 if there would otherwise be no taxable income or taxable income earned in Canada;

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes any corporation in respect of which a predecessor corporation was an amalgamated corporation;

“qualified expenditure” means an expenditure made by a corporation in respect of scientific research and experimental development carried on in Ontario that is a qualified expenditure for the purposes of section 127 of the *Income Tax Act* (Canada), or that would have been a qualified expenditure for the purposes of that section but for the corporation previously specifying the expenditure for the purposes of clause 194 (2) (a) (ii) (A) of that Act, but does not include an expenditure of the type described in subparagraph 37 (7) (f) (i), (ii) or (iii) of that Act;

“research property” means property of a corporation referred to in subparagraph 37 (1) (b) (i) of the *Income Tax Act* (Canada);

“scientific research and experimental development” has the meaning prescribed by regulation made under the *Income Tax Act* (Canada) for the purposes of paragraph 37 (7) (b) of that Act;

“specified percentage”, in respect of a particular research property, is the percentage represented by the ratio of all amounts deducted under this section in respect of the research property to the capital cost of the research property;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

Research and
development
super
allowance

(2) A corporation may deduct a research and development super allowance in computing its income from a business for a taxation year in an amount calculated according to the following formula:

$$A = \frac{(B \times C) + (D \times E)}{F}$$

Where:

“A” is the research and development super allowance for the corporation for the taxation year;

“B” is 0.35 if the corporation is a Canadian-controlled private corpora-

tion throughout the taxation year, or 0.25 otherwise;

“C” is the lesser of the net eligible qualifying expenditures of the corporation for the taxation year or the expenditure base of the corporation for the taxation year;

“D” is 0.525 if the corporation is a Canadian-controlled private corporation throughout the taxation year, or 0.375 otherwise;

“E” is the amount, if any, by which the net eligible qualifying expenditures of the corporation for the taxation year exceed the expenditure base of the corporation for the taxation year;

“F” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “F” is 1.

(3) In determining the amount of the expenditure base of an amalgamated corporation for a particular taxation year, each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1) includes all amounts described under those clauses in respect of any predecessor corporation in respect of all of its taxation years commencing in the base period of the amalgamated corporation.

Expenditure
base after
amalgamation

(4) If subsection 88 (1) of the *Income Tax Act* (Canada) applies with respect to a winding-up of a subsidiary corporation, the amount of the expenditure base of the parent corporation for a particular taxation year includes in each amount determined under clauses (a) to (d) in the definition of “expenditure base” in subsection (1), all amounts described under those clauses in respect of the subsidiary corporation in respect of its taxation years commencing in the base period of the parent corporation.

Expenditure
base after
winding-up
into parent

(5) The expenditure base for a taxation year of a corporation that is associated with one or more other corporations during the taxation year shall be determined according to the following formula:

Associated
corporations

$$B = A \times C / D$$

Where:

“B” is the expenditure base for the corporation for the particular taxation year;

“A” is the aggregate of,

- (a) the expenditure base of the corporation that would be determined, but for this subsection, for the particular taxation year, and

- (b) the expenditure base, as determined without reference to this subsection, of each corporation with which the corporation was associated at any time during the particular taxation year, for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year;

“C” is the net eligible qualifying expenditures of the corporation for the particular taxation year; and

“D” is the aggregate of “C” and the net eligible qualifying expenditures of each corporation with which the corporation was associated at any time during the particular taxation year for each taxation year of each associated corporation ending in the same calendar year as the particular taxation year.

Recapture on disposition of eligible research property

- (6) Except as provided in subsections (7) and (8), if a corporation has disposed of an eligible research property at any time in a particular taxation year, there shall be included in computing the income of the corporation for the particular taxation year an amount equal to the lesser of,

- (a) the specified percentage of the lesser of the fair market value of the property at the time of the disposition or the capital cost to the corporation of the property immediately before the disposition; or

- (b) the amount, if any, by which the aggregate of,

- (i) all amounts deducted under this section by the corporation in computing its income for any taxation year commencing before the disposition and by any corporation associated with the corporation in the particular taxation year in computing its income for any taxation year ending in or before the particular taxation year,

exceeds the aggregate of,

- (ii) all amounts included by virtue of this subsection in respect of any other eligible research property in computing the income of the corporation for any taxation year commencing before the disposition, or in computing the income of any corporation associated with the corporation in the particular taxation year, for any taxation year ending in or before the particular taxation year.

- (7) If subsection 85 (1) or 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to the disposition of eligible research property by a corporation to another corporation that is associated with the corporation in the taxation year in which the disposition occurs,

Idem

- (a) the property shall be deemed to be eligible research property of the other corporation; and
- (b) if the capital cost of the eligible research property to the corporation exceeds the proceeds of disposition, the capital cost of the eligible research property to the other corporation shall be deemed to be the amount that was the capital cost thereof to the corporation.

- (8) If section 87 or subsection 88 (1) of the *Income Tax Act* (Canada) is applicable with respect to an amalgamation of two or more corporations or to a winding-up of a subsidiary corporation, the amalgamated corporation or the parent corporation, as applicable, shall be deemed,

Idem

- (a) to have deducted, in computing its income for a taxation year commencing before the amalgamation or winding-up, all amounts deducted under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year; and
- (b) to have included, in computing its income for any taxation year commencing before the amalgamation or winding-up, all amounts included under this section by any predecessor corporation or subsidiary corporation, as applicable, in computing its income for a taxation year.

- (9) If section 87 of the *Income Tax Act* (Canada) is applicable in respect of an amalgamation of two or more corporations, the capital cost to the amalgamated corporation of any property that was eligible research property of a predecessor corporation and that becomes the property of the amalgamated corporation because of the amalgamation shall be deemed to be the capital cost thereof to the predecessor corporation and the property shall be deemed to be eligible research property of the amalgamated corporation.

Capital cost after amalgamation

- (10) If a corporation has in a taxation year ending in a particular calendar year made a payment to another corporation associated with the corporation in the taxation year, the following rules apply:

Eligible qualified expenditures to associated corporation

1. If the payment would, but for this subsection, be a qualified expenditure

made by the corporation in the taxation year, such portion of the payment as may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation, in a taxation year of the other corporation ending after the particular calendar year, shall be deemed, for the purposes of this section, not to have been paid at the time at which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

2. If the payment is received by the other corporation in a taxation year ending in a calendar year preceding the particular calendar year, the payment shall be deemed for the purposes of this section, if it may reasonably be regarded as a payment for or on account of a scientific research and experimental development expenditure to be made by the other corporation in a taxation year following the year in which the payment was received by it, not to have been paid to the other corporation in the taxation year in which it was actually paid, but to have been paid on the last day of the taxation year of the other corporation in which the expenditure was made by that other corporation.

Where
previously
associated

(11) If another corporation was not associated with a particular corporation in a taxation year, but was associated with the particular corporation at any time during the particular corporation's base period for the taxation year, and all or substantially all of the property of the previously associated corporation that was used by it in carrying on any business during the base period was acquired in any manner by the particular corporation, or by one or more corporations associated with the particular corporation in the taxation year, the following rules apply for the purposes of this section:

1. The previously associated corporation shall be deemed to continue to exist, if it has ceased to exist.
2. The previously associated corporation shall be deemed to be associated with the particular corporation in the taxation year.
3. The previously associated corporation shall be deemed to have had taxation years ending on the same day in each year as the last day of its taxation year in which it was last associated with the particular corporation.

(12) Subsection (11) does not apply if,

Exception

- (a) the previously associated corporation was a predecessor corporation of the particular corporation, or of a corporation associated with the particular corporation in the taxation year; or
- (b) the previously associated corporation was a subsidiary corporation that was wound up before the taxation year and whose parent corporation was either the particular corporation or a corporation associated with the particular corporation in the taxation year.

(13) If a corporation is a member of a partnership, the following rules apply for the purposes of this section:

Corporate
partners

1. If the partnership makes, during a fiscal period of the partnership, an expenditure that would be a qualified expenditure if made by a corporation, an amount equal to the proportion of the expenditure that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period shall be deemed to be a qualified expenditure made by the corporation in the taxation year of the corporation in which that fiscal period ends.
2. If the partnership disposes of a property that would be an eligible research property of the partnership if the partnership were a corporation, an amount equal to the proportion of the amount that would be included under this section, as a result of the disposition, in the income of the partnership, if the partnership were a corporation, that the corporation's share of the income or loss of the partnership for the fiscal period in which the property was disposed of bears to the total income or loss of the partnership in the fiscal period shall be included in computing the income of the corporation for the taxation year in which the fiscal period ends.

(14) If a corporation is a limited partner in a limited partnership at any time in a taxation year and is deemed by subsection (13) to have made a qualified expenditure, the following rules apply:

Maximum
deduction by
limited
partner

1. The maximum amount deductible under subsection (2) by the corporation in the taxation year in respect of the corporation's share of a qualified expenditure made by the limited partnership shall not exceed the aggregate of,

- i. the share of the income, if any, of the limited partnership included in the computation of income of the corporation for the taxation year, and
 - ii. any amount included in the income of the corporation for the taxation year under paragraph 2 of subsection (13).
2. If the amount determined under paragraph 1 is less than the amount that would have been otherwise deductible under this section for the taxation year by the corporation in respect of its share of the eligible qualified expenditure made by the limited partnership, the amount of the difference shall be included in the determination of the corporation's limited partnership loss for the taxation year in respect of the limited partnership as otherwise determined under subsection 96 (2.1) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act.

Anti-avoidance

(15) A corporation is not entitled to a deduction under this section during a year with respect to any expenditure made by it if, as a result of a transaction or an event, or a series of transactions or events, it is reasonable for the Minister to believe that one of the principal purposes of the carrying out of such a transaction or event or series of transactions or events is to enable the corporation to claim a deduction under this section that would not otherwise be allowed.

Definitions

12b.—(1) In this section,

“amalgamated corporation” means a corporation that is a “new corporation” for the purposes of section 87 of the *Income Tax Act* (Canada);

“eligible asset”, of a corporation, means prescribed manufacturing and processing machinery or equipment acquired by the corporation after the 31st day of December, 1988 and before the 1st day of January, 1992, or prescribed pollution control equipment acquired by the corporation after the 17th day of May, 1989, that,

- (a) has not been used by any person for any purpose before being acquired by the corporation,
- (b) is first used by the corporation in Ontario, and
- (c) is used by the corporation for the purpose of earning income from a business;

“eligible asset pool”, of a corporation for a taxation year, means the amount, if any, by which the aggregate of,

- (a) the eligible cost to the corporation at the end of the taxation year of the eligible assets of the corporation for the taxation year or a prior taxation year,
- (b) the eligible cost to the corporation immediately before disposition of the eligible assets of the corporation for the taxation year or a prior taxation year that were acquired and disposed of by the corporation at any time before the end of the taxation year, and
- (c) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in the determination of the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,

exceeds,

(d) the aggregate of,

- (i) all amounts each of which is an amount in respect of an eligible asset included under subparagraph 13 (21) (f) (vii) or (viii) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the corporation at the end of the taxation year of depreciable property of a prescribed class,
- (ii) all amounts each of which is an amount included in the income of the corporation, or of a subsidiary corporation or a predecessor corporation, for the taxation year, or for a prior taxation year, under paragraph 12 (1) (t) of the *Income Tax Act* (Canada), as made applicable for the purposes of this Act, in respect of an eligible asset, and
- (iii) all amounts each of which is the amount of the eligible asset pool of the corporation for a prior taxation year in respect of which the corporation was entitled under this section to deduct an amount in computing its income;

“eligible assets of the corporation for the taxation year” means the eligible assets that were acquired by the corporation in the taxation year or a prior taxation year and in respect of which,

- (a) the taxation year is the first taxation year in which the corporation may include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax*

Act (Canada) in respect of those assets in the determination of the undepreciated capital cost of depreciable property of a prescribed class, and

- (b) no amount has been included under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) by a subsidiary corporation or predecessor corporation in the determination of the undepreciated capital cost of depreciable property of a prescribed class of the corporation for a taxation year;

“eligible cost”, to a corporation at a particular date of eligible assets of the corporation for a taxation year, means,

- (a) in respect of eligible assets that are prescribed manufacturing and processing machinery or equipment, the capital cost to the corporation of the assets at that date, and
- (b) in respect of eligible assets that are prescribed pollution control equipment acquired in a particular taxation year by the corporation, or by a subsidiary corporation or predecessor corporation, the lesser of,

- (i) the capital cost to the corporation of the assets at that date, or

- (ii) the amount by which,

- (A) \$20,000,000 multiplied by the ratio of the number of days in the particular taxation year to 365, or, if the particular taxation year commenced before the 18th day of May, 1989, by the ratio of the number of days in that taxation year after the 17th day of May, 1989, to 365,

exceeds,

- (B) the capital cost to the corporation of the eligible assets acquired in the particular year that have been included in the eligible asset pool of the corporation for a prior taxation year;

“Ontario allocation factor”, of a corporation for a taxation year, has the same meaning as in subsection 12a (1);

“parent corporation” means a corporation that is a “parent” under subsection 88 (1) of the *Income Tax Act* (Canada);

“predecessor corporation” means a corporation that was a predecessor corporation referred to in section 87 of the *Income Tax Act* (Canada) and includes a corporation in

respect of which a predecessor corporation was an amalgamated corporation;

“specified rate”, of a corporation for a taxation year, means the rate calculated according to the following formula:

$$A = 0.1 \times (B / E) + 0.15 \times (C / E) + 0.3 \times (D / E)$$

Where:

“A” is the specified rate of the corporation for the taxation year,

“B” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation before the 1st day of January, 1990,

“C” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1989 and before the 1st day of January, 1991,

“D” is the eligible cost to the corporation of all eligible assets of the corporation for the taxation year acquired by the corporation after the 31st day of December, 1990,

“E” is the aggregate of “B”, “C” and “D”;

“subsidiary corporation” means a corporation that is a “subsidiary” under subsection 88 (1) of the *Income Tax Act* (Canada).

(2) A corporation may deduct in computing its income from a business for a taxation year a current cost adjustment deduction calculated according to the following formula:

Current cost
adjustment
deduction

$$A = (B / C) \times D$$

Where:

“A” is the current cost adjustment deduction for the taxation year;

“B” is the corporation’s eligible asset pool for the taxation year;

“C” is the corporation’s Ontario allocation factor for the taxation year unless the Ontario allocation factor is 0, in which case “C” is 1; and

“D” is the corporation’s specified rate for the taxation year.

(3) If the Minister believes, reasonably, that the corporation has delayed the acquisition of an asset primarily for the purposes of either claiming a deduction under this section or claiming a deduction at a higher specified rate, the Minister may, for the purposes of determining a deduction under this section, deem the acquisition to have occurred on another date.

Date of
acquisition

Corporate
partners

(4) If a corporation is a member of a partnership that has acquired property in a particular fiscal period that would be an eligible asset under this section if acquired by a corporation on the date of acquisition by the partnership, the following rules apply for the purposes of this section:

1. The property shall be deemed to have been acquired jointly by the partners, not by the partnership, on the date the property was acquired by the partnership.
2. The capital cost to the corporation of its interest in the property for the purposes of this section is that proportion of the capital cost of the property to the partnership at the end of the fiscal period of the partnership during which the property was acquired that the corporation's share of the income or loss of the partnership for the fiscal period bears to the total income or loss of the partnership for the fiscal period.
3. The property shall be deemed to be an eligible asset of the corporation for the taxation year in which the fiscal period of the partnership ends in which the partnership may first include an amount under subparagraph 13 (21) (f) (i) of the *Income Tax Act* (Canada) in respect of the property in the determination of the undepreciated capital cost of depreciable property of a prescribed class.
4. The amount of the corporation's eligible asset pool for a taxation year is increased by an amount equal to the proportion of any repaid assistance, included under subparagraph 13 (21) (f) (ii.1) of the *Income Tax Act* (Canada) in determining the undepreciated capital cost to the partnership of depreciable property of a prescribed class at the end of the fiscal period of the partnership ending in the taxation year, that is the corporation's share of the income or loss of the partnership for the fiscal period and reduced by the same proportion of any amount included by the partnership under subparagraph 13 (21) (f) (viii) of that Act for the fiscal period in determining the undepreciated capital cost of the partnership's depreciable property of a prescribed class.

Amalgama-
tions and
winding-up

(5) If a corporation claiming a deduction under this section is an amalgamated corporation or a parent corporation, the following rules apply for the purposes of this section:

1. Each eligible asset acquired on a particular date by a subsidiary corporation or a predecessor corporation shall be

deemed to have been acquired by the corporation on the same date.

2. The capital cost of the asset to the corporation shall be deemed to be the capital cost thereof to the predecessor corporation or the subsidiary corporation.
3. An eligible asset pool of a subsidiary corporation or a predecessor corporation for a prior taxation year shall be deemed to be an eligible asset pool of the corporation for a prior taxation year.

(6) A corporation is not entitled to a deduction under this section with respect to an asset if the acquisition or use of the asset was part of or related to a series of transactions or events and it is reasonable for the Minister to believe that one of the principal purposes for the acquisition of the asset was for use by another person or for use outside Ontario.

Anti-
avoidance

6. Subsection 13 (4) of the Act is amended by adding the following clause:

- (e) if the property is an interest in a partnership,
 - (i) there shall be deducted in respect of each fiscal period of the partnership ending before that time all amounts deducted by the corporation for a taxation year commencing before that time,
 - (A) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (B) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation, and
 - (ii) there shall be added in respect of each fiscal period of the partnership ending before that time all amounts included in the income of the corporation for a taxation year commencing before that time under subsection 12a (14),

except to the extent that all or a portion of any such amounts may reasonably be considered to have been included in the corporation's limited partnership loss in respect of the partnership for the taxation year in which the fiscal period of the partnership ended.

7. The Act is further amended by adding the following section:

Reserve on
disposition of
resource
property

16a. For the purposes of this Act, a reference in this Act or in the *Income Tax Act* (Canada) to section 64 of the *Income Tax Act* (Canada) shall be deemed to be a reference to subsections 16 (1) and (1a) of this Act as they read on the 31st day of December, 1986 with respect to dispositions made by a corporation before the 1st day of January, 1987.

8.—(1) Subsection 18 (5) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6, is repealed.

(2) Subsection 18 (7) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 7, is repealed and the following substituted:

Change in
control

(7) Subsections 66 (11) and (11.3) of the *Income Tax Act* (Canada), except paragraph 66 (11) (e), are applicable for the purposes of this Act.

Idem

(7a) Subsections 66 (11.4) and (11.5) of the *Income Tax Act* (Canada) are applicable for the purposes of this Act with respect to acquisitions of Canadian resource properties.

(3) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by striking out “in sections 18a and 18b” in the amendment of 1988 and substituting “in sections 18a, 18b and 18c”.

(4) Subsection 18 (14) of the Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 6 and amended by 1983, chapter 29, section 7 and 1988, chapter 42, section 4, is further amended by relettering clause (ia) as clause (ic) and by adding the following clauses:

(ga) “original owner”, of a Canadian resource property, means the person who would be the “original owner” of that property under paragraph 66 (15) (g.11) of the *Income Tax Act* (Canada) if that paragraph were read without the references therein to “foreign resource property”, “foreign exploration and development expenses” and to subsections 66 (2), (3) and (4) and 66.7 (2) and (13) of that Act;

(ha) “predecessor owner”, of a Canadian resource property, means the person who would be the “predecessor owner” of that property under paragraph 66 (15) (g.4) of the *Income Tax Act* (Canada) if that paragraph

were read without the references therein to “foreign resource property” and to subsections 66.7 (2) and (15) of that Act;

(ia) “production”, from a Canadian resource property, has the meaning given to that expression by paragraph 66 (15) (h.01) of the *Income Tax Act* (Canada), except that with respect to iron ore, the production from a Canadian resource property means the iron ore produced from the property processed to any stage that is not beyond the prime metal stage or its equivalent;

(ib) “reserve amount” has the meaning given to that expression by paragraph 66 (15) (h.02) of the *Income Tax Act* (Canada).

9.—(1) Clause 18a (b) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by adding at the beginning “subject to section 18d”.

(2) Subclause 18a (b) (iii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by inserting after “(xi)” in the second line “and (xiii)”.

(3) Section 18a of the Act, as enacted by the Statutes of Ontario, 1981, chapter 37, section 7, is amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) the reference to the Minister in clause 66.1 (6) (a) (ii.1) (D) of the *Income Tax Act* (Canada) shall be read as a reference to the Minister of National Revenue.

10.—(1) Section 18b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “to (12.73)” in the first line and substituting “to (12.74)”.

(2) Clause 18b (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 5, is amended by striking out “(12.69) and (12.73)” in the second line and substituting “(12.69), (12.73) and (12.74)”.

(3) Section 18b of the Act is further amended by striking out “and” at the end of clause (b), by adding “and” at the end of clause (c) and by adding the following clause:

(d) expenditures described in subparagraph 66.1 (6) (a) (i) or (ii.1) of that Act renounced before the 14th day of October, 1988 shall be deemed to have been renounced within ninety days after the 31st day of December, 1987.

11. The Act is further amended by adding the following sections:

Successor
rules

18c. Section 66.7 of the *Income Tax Act* (Canada), other than subsections (2), (8), (13) and (15) and paragraphs (10) (f) and (h), is applicable for the purposes of this Act, except that in the application thereof,

- (a) references to "Canadian exploration and development expenses" shall be read as references to only Canadian exploration and development expenses incurred before the 20th day of May, 1981; and
- (b) the section shall be read without the references to "foreign exploration and development expenses", "foreign resource property" and "foreign resource properties".

Proration of
"CDE" and
"COGPE"
for short
taxation
years

18d. Subsection 66 (13.1) of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the reference to paragraph 66.2 (2) (c) of that Act shall be deemed to include a reference to clause 18a (b).

Limited
partnership
resource
expenditures

18e. Section 66.8 of the *Income Tax Act* (Canada) is applicable for the purposes of this Act and in the application thereof the foreign exploration and development expenses referred to in clause (1) (a) (i) (D) of that Act shall be limited to only those foreign exploration and development expenses that are deductible.

12. Section 20 of the Act is amended by adding the following subsections:

Application
of Federal
Act

(3) In the application of section 67.3 of the *Income Tax Act* (Canada) for the purposes of this Act, references in paragraphs (c) and (d) thereof to "this Act" shall be read as references to the *Income Tax Act* (Canada).

Treatment of
foreign
resource
properties on
amalgamation

(4) In the application of subsection 69 (13) of the *Income Tax Act* (Canada) for the purposes of this Act, the proceeds of disposition of a foreign resource property shall be deemed to be the cost amount to the corporation of the foreign resource property immediately before the amalgamation or merger.

13. Section 21 of the Act, as amended by the Statutes of Ontario, 1988, chapter 42, section 7, is repealed and the following substituted:

Benefit
conferred on
corporation

21.—(1) If a person at any time confers a benefit on a corporation either directly or indirectly by any means, the amount of the benefit shall be included in computing the corporation's income or taxable income earned in Canada for the taxation year in which the benefit is conferred, to the extent that,

- (a) the amount of the benefit is not otherwise included in the corporation's income or taxable income earned in Canada; and
- (b) the amount of the benefit would be so included if the amount were a payment made directly by the person to the corporation and the corporation were resident in Canada.

(2) If it is established that a transaction was entered into by persons dealing at arm's length, in good faith and not pursuant to or as part of any other transaction, and not to effect payment, in whole or in part, of an existing or future obligation, no party to the transaction shall be regarded for the purpose of this section as having conferred a benefit on a party with whom he or she was dealing.

14. Section 25 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 9, 1985, chapter 11, section 10, 1986, chapter 39, section 7 and 1988, chapter 42, section 10, is further amended by adding the following subsection:

(7) In the application of subsection 96 (2.1) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under paragraph 96 (2.1) (a) of that Act,

- (a) there shall be added all amounts deducted by the corporation for the taxation year,
 - (i) under section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in the fiscal period, and
 - (ii) under section 12b in respect of the portion of the property of the partnership deemed to be eligible assets acquired by the corporation; and
- (b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) in respect of dispositions made by the partnership.

15. The Act is further amended by adding the following section:

26a.—(1) A corporation that is required under paragraph 132.1 (1) (d) of the *Income Tax Act* (Canada) to include an amount in its income for a taxation year for the purposes of that Act shall include the amount in its income for the taxation year for the purposes of this Act.

(2) In computing the adjusted cost base to the corporation of a unit in a mutual fund trust, there shall be included any amount

Arm's length

Limited
partnership
losses

Application
of Federal
Act

Mutual fund
trust unit

added to the adjusted cost base of the unit under subsection 132.1 (2) of that Act for the purposes of that Act.

16.—(1) Subsection 27 (2) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 10, is repealed and the following substituted:

Receipts for gifts to charities, etc.

(2) In the application of subsections 110.1 (2) and (3) of the *Income Tax Act* (Canada) for the purposes of this Act, a "receipt" includes a photostatic reproduction of the receipt.

(2) Subsection 27 (3) of the Act is repealed and the following substituted:

Interpretation

(3) In the application of the definition of "registered Canadian amateur athletic association" and "registered charity" in subsection 248 (1) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "Minister" shall be read as references to the Minister of National Revenue.

(3) Section 27 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 10, 1984, chapter 29, section 8, 1985, chapter 11, section 11, 1986, chapter 39, section 8 and 1988, chapter 42, section 11, is further amended by adding the following subsections:

Idem

(10) In the application of paragraph 111 (4) (e) of the *Income Tax Act* (Canada) for the purposes of this Act,

(a) the reference therein to the Minister shall be read as a reference to the Minister of National Revenue; and

(b) the paragraph shall be read without reference to the words "under this Part".

Idem

(11) In the application of subsections 111 (5.1), (5.2) and (5.3) of the *Income Tax Act* (Canada) for the purposes of this Act, the references therein to "this Part" shall be read as references to Part II of this Act.

Limited partnership losses

(12) In the application of paragraph 111 (1) (e) of the *Income Tax Act* (Canada) for the purposes of this Act, in determining the amount otherwise determined under clause 111 (1) (e) (ii) (B) of that Act,

(a) there shall be included all amounts deducted by the corporation for the taxation year under,

(i) section 12a in respect of the corporation's share of the qualified expenditures made by the partnership in that fiscal period, and

(ii) section 12b in respect of the portion of the property of the partnership deemed to be eligible

assets acquired by the corporation; and

(b) there shall be deducted all amounts included in the income of the corporation for the taxation year under subsection 12a (14) with respect to dispositions made by the partnership.

17. The Act is further amended by adding the following section:

27a.—(1) The Minister may direct that the maximum amount that may be deducted by a corporation in a taxation year under paragraph 111 (1) (a) of the *Income Tax Act* (Canada), as applicable for the purposes of this Act, in respect of a non-capital loss incurred in a particular taxation year, shall not exceed the amount determined under subsection (2) if,

Reduction of non-capital loss deductible

(a) the corporation deducted an amount under section 12a or 12b, or both, in determining the amount of its non-capital loss for the particular taxation year and the Ontario allocation factor of the corporation for the taxation year in which an amount in respect of the loss is to be deducted is greater than 120 per cent of the Ontario allocation factor for the particular taxation year in which the loss was incurred; or

(b) the Minister has directed the maximum amount deductible in respect of the loss for a prior taxation year.

(2) If the Minister makes a direction under subsection (1) in respect of a loss to be deducted in a taxation year of a corporation, the maximum amount that may be deducted by the corporation in respect of a non-capital loss incurred in a particular taxation year shall be determined according to the following formula:

Maximum amount

$$D = (A + B) - C$$

Where:

"D" is the maximum amount deductible by the corporation in the taxation year in respect of the non-capital loss incurred in the particular taxation year;

"A" is the amount by which the non-capital loss for the particular taxation year exceeds the total of any amounts deducted under section 12a or 12b or both sections for the particular taxation year;

"B" is the allocation adjustment as determined under clause (3) (c); and

"C" is the aggregate of all amounts, each of which is the amount by which the non-capital loss deducted under paragraph 111 (1) (a) of the *Income*

Tax Act (Canada), as applicable for the purposes of this Act, in computing the taxable income of the corporation for a prior taxation year, exceeds the allocation adjustment in respect of the loss for the prior taxation year.

Idem

- (3) For the purposes of this section,
- (a) "Ontario allocation factor" has the same meaning as in subsection 12a (1);
 - (b) the allocation factor for the taxation year in which the loss arose is the allocation factor of the corporation that incurred the loss in that year;
 - (c) the allocation adjustment is the product obtained where the amount of a non-capital loss incurred in a particular taxation year attributable to amounts deducted under section 12a or 12b is multiplied by the ratio of the Ontario allocation factor for the particular taxation year to the Ontario allocation factor for the year for which the allocation adjustment is being determined; and
 - (d) the amount of a non-capital loss incurred in a particular taxation year which is attributable to amounts deducted under section 12a or 12b is the amount by which the lesser of,
 - (i) the non-capital loss for the particular taxation year, or
 - (ii) the total of all amounts, each of which is an amount deducted under section 12a or 12b,
 exceeds,
 - (iii) the aggregate of all amounts, each of which is the amount deducted under paragraph 111 (1) (a) of the *Income Tax Act (Canada)*, as applicable for the purposes of this Act, in computing its taxable income for a taxation year prior to the taxation year for which the allocation adjustment is being determined, in respect of the non-capital loss incurred in the particular taxation year, multiplied by the ratio of the Ontario allocation factor for the taxation year in which the amount in respect of the loss was deducted to the Ontario allocation factor for the particular taxation year in which the loss was incurred.

18. Section 29 of the Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 8, 1985, chapter 11, section 12 and 1988, chapter 42, section 12, is further amended by adding the following subsection:

(4) Section 115.1 of the *Income Tax Act (Canada)* is applicable for the purposes of this Act where the purchaser referred to therein is not a non-resident individual or a non-resident partnership and, in the application thereof, references therein to the "Minister" shall be read as references to the Minister of National Revenue.

Tax deferral for non-resident organization

19. Section 32 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 9 and 1985, chapter 11, section 15, is further amended by adding the following subsection:

(4) In this section, "foreign investment income" of a corporation for a taxation year does not include interest income attributable to a loan for any period in the year during which the loan was an "eligible loan" as defined in subsection 33.1 (1) of the *Income Tax Act (Canada)*.

Idem

20. Subsection 33a (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 17, is repealed and the following substituted:

(1) There may be deducted from the tax otherwise payable by a corporation under this Part for the corporation's first, second or third taxation year ending after the date of its incorporation an amount equal to 15.5 per cent of the amount determined under subsection 33 (2), if,

New enterprise incentive

- (a) the corporation was incorporated after the 13th day of May, 1982 and before the 21st day of April, 1988;
- (b) the corporation commenced carrying on an active business in Canada before the 21st day of April, 1988; and
- (c) the corporation is eligible to claim and has claimed a deduction under section 125 of the *Income Tax Act (Canada)* from the tax otherwise payable by the corporation under that Act for the taxation year.

(2) For the purposes of subsection (1), a corporation incorporated after the 20th day of April, 1988 and before the 1st day of May, 1988 shall be deemed to have been incorporated before the 21st day of April, 1988 and to have commenced carrying on an active business in Canada before the 21st day of April, 1988 if,

Incorporation before the 1st day of May, 1988

- (a) arrangements for the incorporation of the corporation were substantially advanced and application for the incorporation of the corporation had been prepared and sent to the appropriate government authority prior to the 21st day of April, 1988;
- (b) one or more persons commenced carrying on an active business prior to the

21st day of April, 1988, in trust for the corporation to be incorporated; and

- (c) all agreements entered into before the date of incorporation of the corporation by the person or persons carrying on active business in trust for it were adopted by the corporation after its incorporation.

21.—(1) Clause 40 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 11, section 19, is repealed and the following substituted:

- (b) the percentage referred to in subparagraph (a) (i) thereof shall be read as,
- (i) 10 1/3 per cent in its application to taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990, and
 - (ii) 11 5/8 per cent in its application to taxation years ending after the 31st day of December, 1989.

(2) Clauses 40 (2) (c) and (d) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 13, are repealed and the following substituted:

- (c) the reference to “paragraph 152 (4) (b) or (c)” in paragraph (b) thereof shall be read as “clause 73 (7) (b) or (c)”.

(3) Subsection 40 (4) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 15 and 1985, chapter 11, section 19, is repealed and the following substituted:

(4) In the application of clauses 131 (6) (a) (i) (A) and 131 (6) (b) (ii) (C) of the *Income Tax Act* (Canada) for the purposes of this Act, the multiplication factor referred to therein shall be read as,

- (a) “9 21/31 times” for taxation years ending after the 30th day of June, 1988 and before the 1st day of January, 1990; and
- (b) “8 56/93 times” for taxation years ending after the 31st day of December, 1989.

22. Section 45 of the Act is amended by adding the following subsection:

(3) Paragraph 138 (3) (g) of the *Income Tax Act* (Canada) is not applicable for the purposes of this Act.

23.—(1) Clause 49 (1) (a) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 14, is amended by striking out “(o.2) or (o.3)” in the third line and substituting “(o.2), (o.3), (o.4) or (t)”, and by adding at the end “or”.

(2) Clause 49 (1) (b) of the Act is amended by striking out “or” at the end.

(3) Clause 49 (1) (c) of the Act is repealed.

(4) Subsection 49 (4) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 16, is repealed and the following substituted:

(4) The rules in subsections 149 (2), (3), (4), (4.1), (4.2), (6), (8), (9), (10) and (11) of the *Income Tax Act* (Canada) are applicable for the purposes of this section.

Application of rules in Federal Act

(4a) In the application of paragraph 149 (1) (t) and subsection 149 (4.1) of the *Income Tax Act* (Canada), references to the Superintendent of Financial Institutions shall be read as references to the Superintendent of Financial Institutions for Canada.

Idem

(5) Subsection 49 (6) of the Act, as enacted by the Statutes of Ontario, 1984, chapter 29, section 14, is repealed and the following substituted:

(6) In the application of subsection 149 (10) of the *Income Tax Act* (Canada) for the purposes of this Act, the reference therein to “this Part” shall be read as a reference to Part II of this Act and paragraph 149 (10) (b) of that Act, including any predecessor of that paragraph, shall be read without reference to “foreign resource property”.

Idem

24.—(1) Subsection 53 (3) of the Act is amended by striking out the portion before clause (a) and substituting the following:

(3) Despite subsection (1), the taxable paid-up capital for a taxation year of a corporation registered under the *Loan and Trust Corporations Act*, 1987, or that is a bank mortgage subsidiary as defined in section 1 of that Act, is its taxable paid-up capital as it stood at the close of the taxation year, and includes,

Loan and trust companies, bank mortgage subsidiaries

(2) Subsection 53 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

(5) In computing its taxable paid-up capital under subsection (2), a bank shall include all dividends, other than stock dividends, received from other corporations and shall exclude its share of all accumulated earnings and losses of other corporations.

Computation of bank's paid-up capital

(3) Subsection 53 (6) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 19, section 3, is repealed and the following substituted:

Idem

Federal investment tax not deductible

Computation
of paid-up
capital of
loan and
trust
companies,
bank
mortgage
subsidiaries

(6) In computing its taxable paid-up capital, a corporation referred to in subsection (3) shall include all dividends received from other corporations, other than stock dividends, and shall exclude its share of all accumulated earnings or losses of other corporations.

25. Subclause 54 (1) (c) (iv) of the Act, as re-enacted by the Statutes of Ontario, 1983, chapter 29, section 18 and amended by 1986, chapter 39, section 12, is repealed and the following substituted:

(iv) loans and advances that have been issued for a term of less than 120 days or that have been held by the corporation for a period of less than 120 days before the end of the taxation year are deemed not to be loans and advances to other corporations if the loans and advances are to a corporation, whether or not incorporated in Canada, that is,

- (A) carrying on the business of a bank,
- (B) a corporation registered under the *Loan and Trust Corporations Act*, 1987, or that would be required to be registered under that Act if it were carrying on business in Ontario, or
- (C) a bank mortgage subsidiary as defined in section 1 of the *Loan and Trust Corporations Act*, 1987.

26.—(1) Subsection 58 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second line and substituting “referred to in subsection 53 (3)”.

(2) Subsection 58 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fifth line and substituting “four-fifths of 1 per cent”.

27.—(1) Subsection 59 (3) of the Act is amended by striking out “registered under the *Loan and Trust Corporations Act*” in the second and third lines and in the sixth and seventh lines and substituting in each instance “referred to in subsection 53 (3)”.

(2) Subsection 59 (3) of the Act is further amended by striking out “three-fifths of 1 per cent” in the fourth line and substituting “four-fifths of 1 per cent”.

28. Section 60 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 26, is repealed and the following substituted:

60. Despite subsections 58 (1) and 59 (1), no tax is payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), where neither the corporation’s total assets at the end of the taxation year nor its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000.

Where no
tax payable

29.—(1) Subsections 61 (1) and (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed and the following substituted:

(1) For the purposes of this section and section 60, Definitions

“gross revenue”, of a corporation for a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the gross revenue of the partnership, as recorded in the books and records of the partnership for all fiscal periods of the partnership ending in or coinciding with the taxation year, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership;

“total assets”, of a corporation at the end of a taxation year, includes, where the corporation was a member of a partnership during the taxation year, the same proportion of the total assets of the partnership at the end of the partnership’s last fiscal period ending in or coinciding with the taxation year of the corporation, as recorded in the books and records of the partnership for the fiscal period, as the proportion of the profits of the partnership to which the corporation is entitled as a partner in the partnership.

(2) Despite subsections 58 (1) and 59 (1), and except as provided in subsections 63 (1) and (2), the tax payable under this Part for a taxation year by a corporation, other than a bank or a corporation referred to in subsection 53 (3), is, Flat tax

(a) the lesser of \$100 and the tax that would otherwise be payable under this Part, but for this subsection, where,

(i) the corporation’s total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, and

(ii) the corporation’s taxable paid-up capital determined under Division B of this Part for the taxation year does not exceed \$1,000,000;

(b) the lesser of \$200 and the tax that would otherwise be payable under this Part, but for this subsection, where,

- (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,000,000, but neither its total assets nor its gross revenue exceed \$1,500,000, and
- (ii) the corporation's taxable paid-up capital determined under Division B of this Part for the taxation year exceeds \$1,000,000 but does not exceed \$2,000,000;

(c) the lesser of \$500 and the tax that would otherwise be payable under this Part, but for this subsection, where,

- (i) the corporation's total assets at the end of the taxation year or its gross revenue for the taxation year, as recorded in its books and records, exceeds \$1,500,000, and
- (ii) the corporation's taxable paid-up capital as determined under Division B of this Part for the taxation year does not exceed \$2,000,000; and

(d) where the taxable paid-up capital of the corporation as determined under Division B of this Part for the taxation year exceeds \$2,000,000 but does not exceed \$2,300,000, the lesser of,

- (i) the tax that would otherwise be payable under this Part, but for this subsection, and
- (ii) the amount by which the tax that would otherwise be payable under this Part if no deduction was made under subsection 59 (1) exceeds 1.83 per cent of the amount by which \$2,300,000 exceeds the taxable paid-up capital.

(2) Subsection 61 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 16, is repealed and the following substituted:

(4) Section 60 and subsection (2) do not apply to a corporation if,

- (a) the corporation is associated with one or more other corporations and the aggregate of the taxable paid-up capital of the corporation and of each corporation with which it is associated exceeds \$2,000,000; or

(b) the corporation is a member of a partnership or a connected partnership and the aggregate of,

- (i) the taxable paid-up capital of the corporation, and
- (ii) the aggregate of the shares of the taxable paid-up capital of the partnership or of the connected partnership that are allocated under subsection 53 (4) to each person related to the corporation, to the extent that such amounts are not already included in the taxable paid-up capital of the corporation by virtue of clause 53 (4) (c) or clause (a) of this subsection,

exceeds \$2,000,000.

(3) Subsections 61 (5) and (6) of the Act, as enacted by the Statutes of Ontario, 1983, chapter 29, section 19, are repealed.

30.—(1) Sub-subclause 61a (2) (a) (ii) (A) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by striking out “subsection 61 (1) or (2)” in the second and third lines and substituting “section 60 or subsection 61 (2)”.

(2) Sub-subclause 61a (2) (b) (i) (B) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 42, section 17, is amended by inserting after “section” in the third line “60 or”.

31.—(1) Subsection 63 (1) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18, is amended by striking out “section 58 or 60” in the tenth line and substituting “this Part”.

(2) Subsection 63 (2) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 18 and amended by 1985, chapter 11, section 28, is repealed and the following substituted:

(2) Except as provided in section 60 and subsection (3), a family farm corporation, a family fishing corporation and every corporation referred to in sections 39 and 43 of this Act and paragraph 149 (1) (m) of the *Income Tax Act* (Canada) shall, in lieu of any tax otherwise payable under this Part, pay a tax of \$100.

Family
fishing and
family farm
corporations

32. Section 64 of the Act is amended by striking out “Subject to section 60” in the first line.

33. Section 65 of the Act is amended by striking out “except that the tax payable under this Part as reduced by this section shall in no case be less than \$50” in the sixth, seventh and eighth lines.

34. Subsection 66 (9) of the Act is repealed.

35.—(1) Subsection 67 (1), as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, and subsection (1a), as enacted by the Statutes of Ontario, 1985, chapter 11, section 29 and amended by 1986, chapter 39, section 14, of the Act are repealed and the following substituted:

Annual tax return

(1) Every corporation shall deliver to the Minister on or before the last day of the sixth month following the end of the taxation year a return sufficient for the purposes of carrying out this Act.

Exception

(1a) Subsection (1) does not apply to a corporation that is exempt under subsection (1d) from the requirement to deliver a return for the taxation year.

Amended return for prior taxation year

(1b) Every corporation that is not required under subsection (1) to deliver a return for a taxation year shall deliver the return within the time required under subsection (1) if, by reason of a loss sustained by the corporation in the taxation year, the corporation is delivering an amended return for a prior taxation year for the purposes of subsection 73 (8).

Notice or demand

(1c) Every corporation upon receipt of a notice or demand in writing from the Minister, or from any officer of the Ministry of Revenue authorized by the Minister to make such a demand, shall deliver to the Minister a return for each taxation year specified in the notice or demand, sufficient for the purposes of carrying out this Act.

Exception to requirement to deliver a return

(1d) A corporation, other than a bank, a corporation referred to in subsection 53 (3) or an insurance corporation to which Part IV applies, is exempt from the requirement to deliver a return for a taxation year to the Minister under subsection (1) if,

- (a) the corporation was a Canadian-controlled private corporation throughout the taxation year;
- (b) the corporation has filed a return for the taxation year with the Minister of National Revenue under Part I of the *Income Tax Act* (Canada);
- (c) the corporation had no taxable income under this Act for the taxation year; and
- (d) no tax was payable under this Act by the corporation for the taxation year.

(2) Subsection 67 (3) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 29, is amended by striking out "Notwithstanding subsection (1)" in the first line and substituting "Despite subsection (1a)".

36.—(1) Subsection 68 (1) of the Act is repealed and the following substituted:

(1) Every corporation or person who fails to deliver a return for a taxation year as and when required under section 67 shall pay a penalty of,

Penalty for failure to deliver return

- (a) an amount equal to 10 per cent of the tax unpaid when the return is required to be delivered, if the amount of unpaid tax payable by the corporation for the taxation year is less than \$10,000; and
- (b) \$1,000, if at the time the return is required to be delivered the amount of unpaid tax payable by the corporation for the taxation year is \$10,000 or more.

(2) Subsections 68 (2), (3) and (4) of the Act are repealed and the following substituted:

(2) No corporation is liable to a penalty under subsection (1) for failing to file a return as and when required under subsection 67 (1) if it is reasonable at the time when the corporation would otherwise be required to deliver a return under subsection 67 (1) to consider the corporation to be exempt under subsection 67 (1d) from the requirement to file the return.

Saving

(3) Every person is guilty of an offence who,

Offence, false statements

- (a) makes, participates in, assents to or acquiesces in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade the payment of a tax imposed by this Act, destroys, alters, mutilates, hides or otherwise disposes of records or books of account;
- (c) makes, assents to or acquiesces in the making of, false or deceptive entries or omits, or assents to or acquiesces in the omission, to enter a material particular in records or books of account; or
- (d) wilfully, in any manner, evades or attempts to evade compliance with this Act or the payment of taxes imposed by this Act.

(3a) Every person who is guilty of an offence under subsection (3) is, in addition to any penalty otherwise provided by this Act, liable on conviction to a fine of not less than the greater of \$500 and 50 per cent of the tax payable under this Act and sought to be evaded and not more than double the amount of such tax, or to imprisonment for a

Penalty

term of not more than two years, or to both the fine and the imprisonment.

Penalty for
false
statements

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly, or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act, makes, or participates in, assents to or acquiesces in the making of, an incorrect statement or omission (in this subsection referred to as a "false statement") in a return, certificate, statement or answer (in this subsection referred to as a "return") delivered or made in respect of a taxation year as required by or under this Act or the regulations, the corporation is liable to a penalty of the greater of \$100 and 50 per cent of the amount, if any, by which,

- (a) the tax for the year that would be payable by it under this Act if its taxable income or other subject of tax for the year were computed by adding to the taxable income for the year, or other subject of tax reported by it in its return for the year, that portion of the understatement of income, or of any other subject of tax, for the year, as applicable, that is reasonably attributable to the false statement, and if the tax payable for the year under this Act were computed by subtracting from the deductions from tax otherwise payable by the corporation for the year such portion of any such deduction that may reasonably be attributable to the false statement,

exceeds,

- (b) the tax for the year that would be payable by the corporation under this Act had the tax payable for the year been assessed on the basis of the information provided in the return for the taxation year.

Application
of subs. (4)

(4a) Subsection (4) does not apply if the person has been convicted of an offence under subsection (3) for an offence related to the same evasion of or attempt to evade the payment of tax, unless a penalty is imposed upon the corporation under subsection (4) before the commencement of proceedings against the person under subsection (3).

(3) Section 68 of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 30, is further amended by adding the following subsections:

(6) Every corporation that fails to report an amount required to be included in computing its income or other subject of tax in a return delivered under section 67 for a taxation year, and that has failed to report an amount required to be so included in any

Penalty for
repeated
failure to
report an
amount

return delivered under section 67 for any of the preceding three taxation years is liable to a penalty equal to 25 per cent of the amount, if any, by which,

- (a) the tax for the taxation year that would be payable by the corporation under this Act if its taxable income or other subject of tax for the taxation year were computed by including the amount the corporation failed to report,

exceeds,

- (b) the tax for the taxation year that would be payable by the corporation under this Act had the tax been assessed on the basis of only the information provided in the return for the taxation year.

(7) Subsection (6) does not apply if the corporation has been assessed a penalty under subsection (4) with respect to a false statement concerning the same amount. Idem

37.—(1) Sub-subclause 70 (2) (a) (i) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year, or

(2) Sub-subclause 70 (2) (a) (ii) (A) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 19, section 5, is repealed and the following substituted:

- (A) the tax payable for the taxation year under sub-subclause (i) (A), or

(3) Subclause 70 (2) (b) (i) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 31, is repealed and the following substituted:

- (i) subject to subsection (2a), on or before the last day of the third month following the taxation year if,
 - (A) the corporation was a Canadian-controlled private corporation throughout the taxation year, and
 - (B) its taxable income for the taxation year immediately before that taxation year did not exceed \$200,000, or

38. Subsection 72 (5a) of the Act, as re-enacted by the Statutes of Ontario, 1985,

chapter 11, section 32, is repealed and the following substituted:

Application
of subs. (5)

(5a) Subsection (5) does not apply if the tax payable by the corporation by virtue of the reassessment is greater than the tax previously assessed and the corporation has failed to submit, in the return required by subsection 67 (1), (1b) or (1c), the information required by subsection 67 (2).

39.—(1) Clause 73 (1) (b) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 11, section 33, is repealed and the following substituted:

(b) assess the tax for the taxation year and the interest and penalties payable, if any, on the basis of the corporation's return for the taxation year; and

(2) Subsection 73 (3) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20 and 1988, chapter 42, section 18, is repealed and the following substituted:

Provisions
applicable

(3) Paragraphs 56 (1) (f) and 60 (o) of the *Income Tax Act* (Canada), as those paragraphs apply by virtue of sections 14 and 15, respectively, of this Act, and this Part, as they relate to an assessment or reassessment and to assessing tax and reassessing tax, apply with necessary modifications to a determination or redetermination and to determining and redetermining amounts under this Part, except that subsections (1) and (5) do not apply to determinations made under subsection (2) or (2a) and, for greater certainty, an original determination of a corporation's non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the Corporation.

(3) Sub-subclause 73 (7) (a) (iv) (A) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(4) Subsection 73 (7) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 20, 1988, chapter 42, section 18 and subsection (3) of this section, is further amended by striking out the portion before clause (b) and substituting the following:

(7) The Minister may at any time assess tax, interest or penalties, or notify in writing

any person who has delivered a return for a taxation year that no tax is payable for the taxation year, and may,

(a) at any time, if the corporation, or a person delivering a return for the taxation year or acting on its behalf,

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in filing a return or in supplying any information under this Act,

(ii) has failed to deliver any return for the taxation year required to be delivered under section 67 or has failed to file financial statements with the return,

(iii) has been negligent in supplying or in failing to supply any information required under this Act,

(iv) has filed with the Minister a waiver in the prescribed form on or before the later of,

(A) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(B) the latest day such a waiver could be filed under this Act for any previous taxation year,

(v) has filed a waiver under the *Income Tax Act* (Canada) within the time and in the form required by subsection 152 (4) of that Act, or

(vi) has claimed a deduction under paragraph 20 (1) (s) of the *Income Tax Act* (Canada) as made applicable by section 12 of this Act.

(5) Clause 73 (7) (b) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 20 and amended by 1988, chapter 42, section 18, is repealed and the following substituted:

(b) within seven years from the day of mailing of a notice of the original assessment or a notification that no tax is payable for the taxation year where,

(i) the corporation has claimed a deduction for the taxation year under section 41 or section 111 of the *Income Tax Act* (Canada), as applicable for the purposes of this Act,

(ii) as a consequence of a transaction involving the corporation and a

When
assessment
may issue

non-resident person with whom it was not dealing at arm's length, there is reason to assess or reassess the corporation's tax for any relevant taxation year, or

- (iii) as a consequence of an additional payment or reimbursement of any income or profits tax to or by the government of a country other than Canada, there is reason to assess or reassess the corporation's tax for any relevant taxation year; and

(6) Clause 73 (7) (b) of the Act, as re-enacted by subsection (5) of this section, is amended by striking out the portion before subclause (i) and substituting the following:

- (b) before the day that is three years after the expiration of the normal re-assessment period for the corporation in respect of the taxation year where,

(7) Subclause 73 (7) (c) (i) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 42, section 18, is repealed and the following substituted:

- (i) the expiry of the normal reassessment period for the corporation in respect of the taxation year, and

(8) Section 73 of the Act, as amended by the Statutes of Ontario, 1983, chapter 29, section 22, 1984, chapter 29, section 20, 1985, chapter 11, section 33 and 1988, chapter 42, section 18, is further amended by adding the following subsections:

(2a) Where at any time the Minister ascertains the tax consequences to a corporation under section 5a with respect to a transaction, the Minister may determine any amount that is relevant for the purposes of computing the amount of the tax consequences and send to the corporation with all due dispatch a notice of determination stating the amount so determined.

(2b) A determination of an amount shall not be made under subsection (2a) at a time where the amount is relevant only for the purposes of computing the tax consequences to a corporation for a taxation year ending before the time.

(4a) Subject to the corporation's rights of objection and appeal in respect of the determination and to any redetermination made by the Minister, a determination made by the

Minister under subsection (2a) with respect to a corporation is binding on both the Minister and the corporation for the purpose of calculating the tax consequences to the corporation for any taxation year.

(9) Section 73 of the Act is further amended by adding the following subsection:

(6a) For the purposes of subsection (7), the normal re-assessment period for a corporation in respect of a taxation year is,

Normal re-assessment period

- (a) if at the end of the year the corporation is a mutual fund corporation or a corporation other than a Canadian-controlled private corporation, the period that ends five years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year; or

- (b) in any other case, the period that ends four years after the day of mailing of a notice of an original assessment in respect of the corporation for the year or the day of mailing of a notification that no tax is payable by the corporation for the year.

(10) Section 73 of the Act is further amended by adding the following subsections:

(7b) Where a corporation is exempt under subsection 67 (1d) from the requirement to deliver a return under subsection 67 (1) for the taxation year, an original notice of assessment shall be deemed, for the purposes of subsection (7), to be sent to the corporation on the day that is six months after the end of the taxation year.

Deemed assessment

(7c) Subsection (7b) does not apply if the Minister sends an original notice of assessment to the corporation for the taxation year within fifty-four months after the end of the taxation year.

Exception

(11) Section 73 of the Act is further amended by adding the following subsection:

(7d) A reassessment, an additional assessment or an assessment may be made under clause (7) (b) after the normal reassessment period for the corporation in respect of the taxation year only to the extent that it may reasonably be regarded as relating to,

Limitation

- (a) the deductions referred to in subclause (7) (b) (i);
- (b) the transaction referred to in subclause (7) (b) (ii); or
- (c) the additional payment or reimbursement referred to in subclause (7) (b) (iii).

Notice of determination

No determination for prior years

Determination binding

40.—(1) Subsection 75 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 11, section 34, is further amended by striking out the portion before clause (a) and substituting the following:

(1) If a return required to be delivered by a corporation under section 67 for a taxation year is delivered within four years from the end of the taxation year, the Minister,

(2) Clause 75 (1) (b) of the Act is repealed and the following substituted:

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within the period determined under clause 73 (7) (b) or (c), as the case may be, within which the Minister may reassess tax payable by the corporation for the year.

41. Subsection 77 (1) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 21, is repealed and the following substituted:

(1) Subject to subsection 85 (3), a corporation that objects to an assessment may within 180 days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts.

(1a) For the purposes of this section and sections 78 to 85, an assessment includes a determination made by the Minister under subsection 73 (2a) and a notice of assessment includes a notice of determination, a reassessment includes a redetermination by the Minister and an additional assessment includes an additional determination.

42.—(1) Subsection 85 (2) of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by striking out the portion before clause (a) and substituting the following:

(2) The corporation and the Minister shall, with respect to a designated assessment to which this section applies or a specified assessment that has met the conditions under clause (3) (b), be bound by,

(2) Subsection 85 (3) of the Act is repealed and the following substituted:

(3) Sections 77 to 83 do not apply,

(a) to a reassessment referred to in subsection (2); and

(b) to a specified assessment if the corporation has served a notice of objection to the assessment or determination

issued under the *Income Tax Act* (Canada), referred to in clause (5) (c), in which the same issues have been raised as would have been raised in an objection to the specified assessment.

(3) Section 85 of the Act, as amended by the Statutes of Ontario, 1984, chapter 29, section 23, is further amended by adding the following subsection:

(5) For the purposes of this Part, an assessment in respect of a particular taxation year, or a part thereof, is a specified assessment if,

(a) the assessment or the part thereof, as applicable, states on its face that it is a specified assessment under this section;

(b) the assessment or the part thereof, as applicable, is an assessment or determination involving the application of section 5a in respect of the taxation year; and

(c) a notice of assessment or determination has been issued to the corporation under the *Income Tax Act* (Canada) involving the application of section 245 of that Act in respect of the same taxation year or transaction.

43.—(1) Subsection 86 (1) of the Act is amended by adding “and” at the end of clause (b), by striking out “and” at the end of clause (c) and by striking out clause (d).

(2) Subsection 86 (4) of the Act, as re-enacted by the Statutes of Ontario, 1984, chapter 29, section 24, is repealed.

44.—(1) Subsection 88 (1) of the Act is amended by striking out “\$25” in the fourth line and substituting “\$200”.

(2) Subsection 88 (2) of the Act is amended by striking out “\$25” in the third line and substituting “\$200”.

45. Subsections 91 (1) and (2) of the Act are repealed and the following substituted:

(1) Every person employed directly or indirectly in the administration or enforcement of this Act or in the development and evaluation of tax policy for the Government of Ontario shall preserve secrecy with respect to all matters related to this Act that come to his or her knowledge in the course of such employment and shall not communicate any information or material related to any such matter to any other person not legally entitled thereto except,

(a) as may be required in connection with the administration or enforcement of this Act or any other Act administered by the Minister or the regulations under any of them;

Refunds

Notice of
ObjectionAssessment
includes
determinationCorporation
and Minister
boundApplication
of ss. 77 to
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assessment,
definedConfiden-
tiality

(b) as may be required in connection with the development and evaluation of tax policy by the Government of Ontario or the Government of Canada;

(c) to his or her legal counsel; or

(d) with the consent of the person to whom the information or material relates.

Offence and penalty

(2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Commencement and application

46.—(1) Except as provided in subsections (2) to (54), this Act comes into force on the day it receives Royal Assent.

Commencement, November 13, 1981

(2) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsections 111 (5.1) and (5.2) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to acquisitions of control occurring after the 12th day of November, 1981 other than those occurring before the 1st day of January, 1983 where the arrangements therefor were substantially advanced and evidenced in writing on the 12th day of November, 1981.

Idem

(3) Subsection 49 (6) of the Act, set out in subsection 23 (5), shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations that became taxable after the 12th day of November, 1981.

Idem

(4) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the deletion of subsection 149 (10) of the Federal Act, shall be deemed to have come into force on the 13th day of November, 1981, and applies to corporations which became subject to tax after the 12th day of November, 1981.

Commencement, January 1, 1985

(5) Clause 1 (1) (ab) of the Act, set out in subsection 1 (3), shall be deemed to have come into force on the 1st day of January, 1985, and applies to anything sent by mail after the 31st day of December, 1984.

Idem

(6) Section 7 of the Act, set out in section 3, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years ending after the 31st day of December, 1984.

Idem

(7) Subsection 29 (4) of the Act, set out in section 18, shall be deemed to have come into force on the 1st day of January, 1985, and applies to taxation years commencing after the 31st day of December, 1984.

Commencement, January 1, 1986

(8) Subsections 12 (6) and (6aa) of the Act, set out in subsection 4 (2), shall be deemed to have come into force on the 1st day of January, 1986, and apply to amounts paid or payable after the 31st day of December, 1985.

(9) Section 16a of the Act, set out in section 7, shall be deemed to have come into force on the 1st day of January, 1987, and applies to dispositions made by a corporation before the 1st day of January, 1987.

Commencement, January 1, 1987

(10) Clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (o.4) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1987, and applies to taxation years ending after the 31st day of December, 1986.

Idem

(11) Subsection 18 (7a) of the Act, set out in subsection 8 (2), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of Canadian Resource Properties occurring after the 15th day of January, 1987 other than those occurring before the 1st day of January, 1988, where the corporation acquiring the property was obliged on the 15th day of January, 1987 to acquire the property under the terms of a written agreement entered into before the 16th day of January, 1987.

Commencement, January 16, 1987

(12) Subsection 20 (4) of the Act, set out in section 12, shall be deemed to have come into force on the 16th day of January, 1987, and applies to amalgamations and mergers occurring after the 15th day of January, 1987.

Idem

(13) Subsection 27 (10) of the Act, set out in subsection 16 (3), shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(14) Subsection 27 (11) of the Act, set out in subsection 16 (3), with respect to subsection 111 (5.3) of the Federal Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to acquisitions of control occurring after the 15th day of January, 1987 other than acquisitions of control occurring before the 1st day of January, 1988, where the persons acquiring the control were obliged on the 15th day of January, 1987 to acquire the control under the terms of agreements in writing entered into before the 16th day of January, 1987.

Idem

(15) Section 34, which refers to subsection 66 (9) of the Act, shall be deemed to have come into force on the 16th day of January, 1987, and applies to taxation years ending after the 15th day of January, 1987.

Idem

(16) Subsection 8 (1), which refers to subsection 18 (5) of the Act, shall be deemed to

Commencement, February 18, 1987

have come into force on the 18th day of February, 1987, and applies to taxation years ending after the 17th day of February, 1987.

Idem

(17) The following shall be deemed to have come into force on the 18th day of February, 1987, and apply to taxation years ending after the 17th day of February, 1987:

- (a) subsection 18 (7) of the Act, set out in subsection 8 (2);
- (b) the amendments to subsection 18 (14) of the Act, set out in subsections 8 (3) and (4);
- (c) the amendment to subclause 18a (b) (iii) of the Act, set out in subsection 9 (2); and
- (d) section 18c of the Act, set out in section 11.

Commence-
ment, March
20, 1987

(18) The amendments to section 18b of the Act, set out in subsection 10 (1), and clause 18b (a) of the Act, set out in subsection 10 (2), shall be deemed to have come into force on the 20th day of March, 1987, and apply after the 19th day of March, 1987.

Commence-
ment, April
1, 1987

(19) The amendments to clauses 18a (b) and (c) and the enactment of clause 18a (d) of the Act, set out in subsection 9 (3), shall be deemed to have come into force on the 1st day of April, 1987, and apply after the 31st day of March, 1987.

Commence-
ment, June
6, 1987

(20) The amendment to clause 18a (b) of the Act, set out in subsection 9 (1), and section 18d of the Act, as enacted in section 11, shall be deemed to have come into force on the 6th day of June, 1987, and apply to taxation years commencing after the 5th day of June, 1987.

Commence-
ment, June
18, 1987

(21) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to section 66.8 of the Federal Act, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(22) Section 18e of the Act, set out in section 11, shall be deemed to have come into force on the 18th day of June, 1987, and applies to taxation years ending after the 17th day of June, 1987.

Idem

(23) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to paragraph 67.1 (2) (d) of the Federal Act, on the 18th day of June, 1987, and applies to amounts incurred after the 17th day of June, 1987 in respect of food and beverages consumed and entertainment enjoyed after the 31st day of December, 1987.

Idem

(24) The following shall be deemed to have come into force on the 18th day of June, 1987, and apply to taxation years that com-

mence after the 17th day of June, 1987 and end after the 31st day of December, 1987:

- (a) subsection 12 (9b) of the Act, set out in subsection 4 (6);
- (b) subsections 12 (6c) and (9c) of the Act, set out in subsection 4 (8);
- (c) subsection 20 (3) of the Act, set out in section 12; and
- (d) subsection 45 (3) of the Act, set out in section 22.

(25) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), shall be deemed to have come into force, with respect to subsection 258 (5) of the Federal Act, on the 19th day of June, 1987, and applies after the 18th day of June, 1987.

Commence-
ment, June
19, 1987

(26) Subsection 12 (10a) of the Act, set out in subsection 4 (8), and subsection 32 (4) of the Act, set out in section 19, shall be deemed to have come into force on the 18th day of December, 1987, and apply to corporations in respect of all taxation years commencing after the 17th day of December, 1987.

Commence-
ment,
December 18,
1987

(27) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 84 (1) (c.3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies with respect to conversions of contributed surplus into paid-up capital after the 31st day of December, 1987.

Commence-
ment,
January 1,
1988

(28) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraphs 13 (7.1) (e), 37 (1) (e), 110 (1) (k) and subparagraph 13 (21) (f) (vii) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to taxation years ending after the 31st day of December, 1987.

Idem

(29) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to subsection 14 (3) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1988, and applies to acquisitions of property after the 31st day of December, 1987.

Idem

(30) The following shall be deemed to have come into force on the 1st day of January, 1988, and apply to taxation years ending after the 31st day of December, 1987:

Idem

- (a) subclause 1 (1) (aa) (i) of the Act, set out in subsection 1 (1);
- (b) subsection 12 (2) of the Act, set out in subsection 4 (1);
- (c) subsection 12 (7) of the Act, set out in subsection 4 (3);
- (d) clause 12 (7) (c) of the Act, set out in subsection 4 (4);

- (e) subsections 12 (14) and (15) of the Act, set out in subsection 4 (7);
- (f) subsections 12 (18) and (19) of the Act, set out in subsection 4 (8);
- (g) subsections 26a (1) and (2) of the Act, set out in section 15; and
- (h) subsections 27 (2) and (3) of the Act, set out in subsections 16 (1) and (2).

Idem

(31) Section 18b of the Act, set out in subsection 10 (3), shall be deemed to have come into force on the 1st day of January, 1988, and applies to expenditures incurred after the 31st day of December, 1987.

Idem

(32) Clause 73 (7) (b) of the Act, set out in subsection 39 (5), shall be deemed to have come into force on the 1st day of January, 1988, and applies to assessments and reassessments relating to transactions entered into, payments paid and reimbursements received after the 31st day of December, 1987.

Commence-
ment, April
5, 1988

(33) The following shall be deemed to have come into force on the 5th day of April, 1988, and apply to taxation years ending after the 4th day of April, 1988:

- (a) subsection 53 (3) of the Act, set out in subsection 24 (1);
- (b) the amendment of subsection 58 (3) of the Act, set out in subsection 26 (1); and
- (c) the amendment of subsection 59 (3) of the Act, set out in subsection 27 (1).

Idem

(34) Subclause 54 (1) (c) (iv) of the Act, set out in section 25, shall be deemed to have come into force on the 5th day of April, 1988, and applies to loans or advances issued after the 4th day of April, 1988.

Commence-
ment, April
21, 1988

(35) Clause 13 (4) (e) of the Act, set out in section 6, shall be deemed to have come into force on the 21st day of April, 1988, and applies to fiscal periods ending after the 20th day of April, 1988.

Idem

(36) The amendments of subsection 58 (3) of the Act, set out in subsection 26 (2), and subsection 59 (3) of the Act, set out in subsection 27 (2), shall be deemed to have come into force on the 21st day of April, 1988, and apply to taxation years ending after the 20th day of April, 1988 except that for taxation years that commence before the 21st day of April, 1988 and end after the 20th day of April, 1988, the rate increase shall be prorated according to the number of days in the taxation year subsequent to the 20th day of April, 1988.

Idem

(37) The following shall be deemed to have come into force on the 21st day of April, 1988, and apply with respect to taxation years ending after the 20th day of April, 1988:

- (a) clause 1 (1) (ja) of the Act, set out in subsection 1 (2);
- (b) section 12a of the Act, set out in section 5;
- (c) subsection 25 (7) of the Act, set out in section 14;
- (d) subsection 27 (12) of the Act, set out in subsection 16 (3);
- (e) section 27a of the Act, set out in section 17;
- (f) subsections 33a (1) and (2) of the Act, set out in section 20;
- (g) section 60 of the Act, set out in section 28;
- (h) subsections 61 (1) and (2) of the Act, set out in subsection 29 (1);
- (i) subsection 61 (4) of the Act, set out in subsection 29 (2);
- (j) the repeal of subsections 61 (5) and (6) of the Act, set out in subsection 29 (3);
- (k) the amendment of sub-subclause 61a (2) (a) (ii) (A) of the Act, set out in subsection 30 (1);
- (l) the amendment of sub-subclause 61a (2) (b) (i) (B) of the Act, set out in subsection 30 (2);
- (m) the amendment of subsection 63 (1) of the Act, set out in subsection 31 (1);
- (n) the amendment of section 64 of the Act, set out in section 32;
- (o) the amendment of section 65 of the Act, set out in section 33;
- (p) subsections 67 (1), (1a), (1b), (1c) and (1d) of the Act, set out in subsection 35 (1);
- (q) the amendment of subsection 67 (3) of the Act, set out in subsection 35 (2);
- (r) subclause 70 (2) (b) (i) of the Act, set out in subsection 37 (3);
- (s) subsection 72 (5a) of the Act, set out in section 38;
- (t) clause 73 (1) (b) of the Act, set out in subsection 39 (1);
- (u) subsections 73 (7b) and (7c) of the Act, set out in subsection 39 (10); and
- (v) subsection 75 (1) of the Act, set out in section 40.

(38) Subsection 63 (2) of the Act, set out in subsection 31 (2), with respect to the increase in the tax payable, shall be deemed to have come into force on the 21st day of April, 1988, and applies with respect to taxation years ending after the 20th day of April, 1988.

Idem

Commence-
ment, May 1,
1988

(39) Sub-subclause 1 (2) (d) (iv) (A) of the Act, set out in subsection 1 (4), with respect to paragraph 37 (1) (d) of the Federal Act, shall be deemed to have come into force on the 1st day of May, 1988, and is effective for expenditures made after the 30th day of April, 1988.

Commence-
ment, July 1,
1988

(40) Clause 40 (2) (b) of the Act, set out in subsection 21 (1), and subsection 40 (4), set out in subsection 21 (3), shall be deemed to have come into force on the 1st day of July, 1988, and apply to taxation years ending after the 30th day of June, 1988.

Commence-
ment,
September
13, 1988

(41) Section 5a of the Act, set out in section 2, shall be deemed to have come into force on the 13th day of September, 1988, and for transactions assessed under subsection 245 (1) of the Federal Act, applies to transactions entered into after the 12th day of September, 1988 other than for,

(a) transactions that are part of a series of transactions, determined without reference to subsection 248 (10) of the Federal Act, commencing before the 13th day of September, 1988 and completed before the 1st day of January, 1989; or

(b) any one or more transactions, one of which was entered into before the 13th day of April, 1988, that were entered into by a taxpayer in the course of an arrangement and in respect of which the taxpayer received from the Department of National Revenue (Canada), before the 13th day of April, 1988, a confirmation or opinion in writing with respect to the tax consequences thereof,

and for transactions not assessed under subsection 245 (1) of the Federal Act, section 5a applies to transactions entered into on or after the date on which this Act receives Royal Assent.

Idem

(42) Subsections 21 (1) and (2) of the Act, set out in section 13, shall be deemed to have come into force on the 13th day of September, 1988, and apply with respect to benefits conferred after the 12th day of September, 1988.

Idem

(43) Subsections 73 (2a), (2b) and (4a) of the Act, set out in subsection 39 (8), and subsection 73 (3) of the Act, set out in subsection 39 (2), shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

Idem

(44) Subsections 77 (1) and (1a) of the Act, set out in section 41, shall be deemed to have come into force on the 13th day of September, 1988, and apply after the 12th day of September, 1988.

Idem

(45) Subsection 85 (2) of the Act, set out in subsection 42 (1), shall be deemed to have

come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

(46) Subsection 85 (3) of the Act, set out in subsection 42 (2), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

Idem

(47) Subsection 85 (5) of the Act, set out in subsection 42 (3), shall be deemed to have come into force on the 13th day of September, 1988, and applies after the 12th day of September, 1988.

Idem

(48) Subsection 1 (1a) of the Act, set out in subsection 1 (6), shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years of Canadian-controlled private corporations that commence before the 1st day of January, 1988 and to taxation years of other private corporations that commence before the 1st day of July, 1988.

Commence-
ment,
January 1,
1989

(49) Clause 12 (7) (d) of the Act, set out in subsection 4 (5), and section 12b of the Act, set out in section 5, shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Idem

(50) The amendment of clause 49 (1) (a) of the Act, set out in subsection 23 (1), with respect to the addition of the reference to paragraph 149 (1) (i) of the Federal Act, shall be deemed to have come into force on the 1st day of January, 1989, and applies to taxation years ending after the 31st day of December, 1988.

Idem

(51) The amendment of clause 49 (1) (b) of the Act, set out in subsection 23 (2), and the repeal of clause 49 (1) (c) of the Act, set out in subsection 23 (3), and the enactment of subsections 49 (4) and (4a) of the Act, set out in subsection 23 (4), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Idem

(52) Subsection 53 (5) of the Act, set out in subsection 24 (2), and subsection 53 (6) of the Act, set out in subsection 24 (3), shall be deemed to have come into force on the 1st day of January, 1989, and apply to taxation years ending after the 31st day of December, 1988.

Idem

(53) The following shall be deemed to have come into force on the 28th day of April, 1989:

Commence-
ment, April
28, 1989

(a) the amendment of clause 40 (2) (c) of the Act, set out in subsection 21 (2);

(b) the repeal of clause 40 (2) (d) of the Act, set out in subsection 21 (2); and

(c) clause 75 (1) (b) of the Act, as re-enacted by subsection 40 (2).

Idem

(54) The following shall be deemed to have come into force on the 28th day of April, 1989, other than with respect to a taxation year of a corporation for which a notice of an original assessment in respect of the corporation for the taxation year, or a notification that no tax is payable by the corporation for the taxation year, was mailed before the 28th day of April, 1986,

(a) the amendment of sub-subclause 73 (7) (a) (iv) (A) of the Act, set out in subsection 39 (3);

(b) the re-enactment of clause 73 (7) (b) of the Act, set out in subsection 39 (6);

(c) the re-enactment of subclause 73 (7) (c) (i) of the Act, set out in subsection 39 (7);

(d) the enactment of subsection 73 (6a) of the Act, set out in subsection 39 (9).

47. The short title of this Act is the *Corporations Tax Amendment Act, 1990*. Short title

Bill 11

An Act to amend the Income Tax Act

The Hon. S. Wark-Martyn

Minister of Revenue



1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

GENERAL. The Bill implements the proposal contained in the Budget of April 24, 1990 to enhance the Ontario Tax Reduction Program as well as making a minor interpretation change.

SECTION 1. The amendment clarifies that the term "Minister" in the provisions of the *Income Tax Act* (Canada) adopted for the purposes of the Act means the Ontario Minister of Revenue and not the Minister of National Revenue.

SECTION 2. Subsections 6 (1) and (2) are re-enacted to base the determination of the Ontario Tax Reduction for low-income earners on the calculation of a prescribed personal amount for the individual. No tax is payable if the personal amount equals or exceeds Ontario income tax otherwise payable by the individual. If the tax exceeds the personal amount, the tax is reduced by the difference, if any, by which three times the personal amount exceeds twice the tax otherwise payable.

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Table in clause 1 (6) (h) of the *Income Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 91, section 1, is amended by adding after the fourth item the following item:

Minister Provincial Minister

2. Subsections 6 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 4, and subsection 6 (2a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 4, are repealed and the following substituted:

(1) If the tax otherwise payable by an individual under this Act for a taxation year does not exceed the individual's personal amount determined in the prescribed manner for the taxation year, no tax is payable under this Act by the individual for the taxation year.

No tax
payable

(2) If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual's personal amount for the taxation year, the tax payable under this Act may be reduced by the amount, if any, by which three times the individual's personal amount for the taxation year exceeds twice the amount of tax otherwise payable by the individual under this Act for the taxation year.

Tax
reduction

3.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 20th day of December, 1989.

Idem

(3) Section 2 shall be deemed to have come into force on the 1st day of January, 1990.

Idem

4. The short title of this Act is the *Income Tax Amendment Act, 1990*.

Short title

Bill 11

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 11

(Chapter 23
Statutes of Ontario, 1990)

An Act to amend the Income Tax Act

The Hon. S. Wark-Martyn

Minister of Revenue



1st Reading	December 4th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Income Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Table in clause 1 (6) (h) of the *Income Tax Act*, as enacted by the Statutes of Ontario, 1989, chapter 91, section 1, is amended by adding after the fourth item the following item:

Minister	Provincial Minister
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2. Subsections 6 (1) and (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 73, section 4, and subsection 6 (2a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 73, section 4, are repealed and the following substituted:

(1) If the tax otherwise payable by an individual under this Act for a taxation year does not exceed the individual's personal amount determined in the prescribed manner for the taxation year, no tax is payable under this Act by the individual for the taxation year.

(2) If the tax otherwise payable by an individual under this Act for a taxation year exceeds the individual's personal amount for the taxation year, the tax payable under this Act may be reduced by the amount, if any, by which three times the individual's personal amount for the taxation year exceeds twice the amount of tax otherwise payable by the individual under this Act for the taxation year. Tax reduction

3.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent. Commence-
ment

(2) Section 1 shall be deemed to have come into force on the 20th day of December, 1989. Idem

(3) Section 2 shall be deemed to have come into force on the 1st day of January, 1990. Idem

4. The short title of this Act is the *Income Tax Amendment Act, 1990*. Short title

No tax
payable

12 ON
B
56

Bill 12

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education



1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Education Act* in respect of the following matters:

1. The establishment of French-language school boards.

Section 2 of the Bill permits French-language school boards to be established by regulation. The regulation-making authority is intended to cover matters similar to those dealt with in the *Ottawa-Carleton French-Language School Board Act, 1988*.

2. The composition of boards with a French-language section.

In March 1990, the Supreme Court of Canada ruled that the number of minority language representatives on a school board should be proportional to the number of minority language students enrolled in the board's schools. This decision is implemented by subsections 14 (3) and (4) of the Bill, which amend subsections 206a (8) and (9) of the *Education Act*. Sections 15, 16, 19 and 20 of the Bill are complementary to these amendments.

3. Other matters relating to the election of board members.

Section 3 of the Bill amends section 70 of the *Education Act* so that, if a board appointed under section 70 is to be dissolved on the 1st day of January immediately following a regular election of school boards, the imminent dissolution of the section 70 board will be taken into account in the elections.

Section 4 of the Bill amends section 105 of the *Education Act* to make clear that county and district combined separate school boards may be established in any year, regardless of whether it is a regular election year. If a board is established in a year that is not a regular election year, the initial membership of the board will be determined in accordance with regulations made under section 105 of the Act.

Sections 10 and 12 of the Bill revise provisions of the *Education Act* dealing with vacancies on school boards. The new provisions make clear that, in boards composed of members elected by different electoral groups (e.g. French-language electors and English-language electors), decisions with respect to filling a vacancy will be made by the board members elected by the electoral group affected by the vacancy. The amendments also provide a sixty-day period within which vacancies are to be filled. The existing Act generally requires vacancies to be filled at the first meeting of the board after the vacancy occurs. Sections 11, 13 and 18 of the Bill are consequent on these amendments.

Subsection 14 (1) of the Bill provides for population determinations on which board sizes depend to be made earlier in the year in which a regular election is to be held. Section 1 of the Bill is complementary to this amendment.

Subsection 14 (2) of the Bill amends rule 6 of subsection 206a (6) of the *Education Act* so that a board's decision to increase or decrease the size of the board by one or two members will apply only to the board elected at the next regular election. The existing Act provides that such a decision applies to the boards elected at the next two regular elections. Section 21 of the Bill is complementary to this amendment.

Subsection 14 (5) of the Bill amends subsection 206a (13) of the *Education Act* to allow the members of a board who represent an electoral group to decide to designate a municipality as a low population municipality, thereby permitting an alternative distribution of members representing the electoral group. The existing Act requires this designation to be made by the full board. Subsection 14 (6) of the Bill is consequent on this amendment.

Section 17 of the Bill amends section 277i of the *Education Act* to make clear that the minority-language section of a board may choose to have the distribution of members determined under subsections 206a (11) to (24), instead of under section 277i.

4. The funding of secondary school instruction provided by Roman Catholic school boards when the instruction is provided through agreements with other boards.

Section 136g of the existing *Education Act* phases in provincial funding to Roman Catholic school boards that elect to perform the duties of secondary school boards. Funding is phased in at the rate of one additional grade per year until full funding is achieved. Section 5 of the Bill amends section 136g to provide full funding immediately if the Roman Catholic school board provides instruction in all secondary school grades and the instruction is provided in a school operated by another board by means of an agreement with the other board. If a board receives full funding on this basis, it may switch to providing secondary school instruction in its own schools only with the approval of the Minister of Education. Sections 6 to 9 of the Bill contain complementary amendments. Section 22 of the Bill deems a by-law of The Haldimand-Norfolk Roman Catholic Separate School Board to have been approved by the Minister of Education on the 30th day of June, 1990, so that the board may obtain full funding for the 1990-91 school year.

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act* is amended by adding the following paragraph:

- 1a. “assessment commissioner” means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. “population” means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
- (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
- (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
- (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
- (j) the dissolution of another board or a section of another board; and
- (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.

(11c) A regulation under subsection (11a) may, Idem

- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
- (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
- (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

French-language school boards

Idem

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

- (d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

3. Section 70 of the Act is amended by adding the following subsection:

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

- (f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school zone shall, for the purpose of the election, be deemed to have been designated.

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations.

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, sec-

tion 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in a school operated by another board by means of an agreement with the other board.

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if,

- (a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or
- (b) after the first school year in which the election under section 136a is effective,

(i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and

(ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-l(1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or

All services provided by agreement

Restriction when subs. (1) applies

Teaching and other staff

Revocation of order

Establishment of boards

Idem

Idem

(b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-l(6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Yearly
designations
for ten years

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

Idem

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

Maximum
limit

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

Date for
designations

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

Transfer of
employment
if subs.
136g (4) does
not apply

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

Transfer of
employment
if cl.
136g (5) (a)
applies

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

Idem

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

(a) one of the boards that operates the schools, as determined by agreement of those boards; or

(b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

Objectors

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

Second
transfer of
employment
if cl.
136g (5) (b)
applies

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

Similar
employment

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to either his or her previous or newly acquired qualifications.

Training
assistance

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

Seniority

(a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or

(b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal
of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation
rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and
employment
status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave
credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or relationship is transferred at the time the contract or relationship is transferred.

Credit for
total accumu-
lation

(20b) If the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

Accumulation
and use of
sick leave
credits

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is trans-

ferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Gratuity

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

- (a) the collective agreement that applied on the last date the person was employed by the public board that designated the person; as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or
- (b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

Idem

- (a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or
- (b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board bears to the total number of years of service of the person with such boards.

Idem

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

Non-application of
subss. (20d)
to (20f)

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Staff dispute
resolution

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-l in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

Parties

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Right to
receive
secondary
school
instruction
from Roman
Catholic
school board

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

Right to
receive
secondary
school
instruction
from public
board

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

Definition

198.—(1) In this section, "electoral group" means,

(a) in respect of a board of education or a county or district combined separate

school board, an electoral group as defined in Part VII-A; and

(b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term,

Vacancies

(a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or

(b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy.

Optional
election

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3).

Idem

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office.

Term of
office

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by any two electors of the board or by the appropriate supervisory officer.

Elections for
three
member
boards

(2) The meeting shall take place within sixty days of the date on which the last office became vacant.

Time of
meeting

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

Notice of
meeting

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

Election at
meeting

Vacancy in
rural separate
school board
before
incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of
election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of
time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determi-
nation of
population of
electoral
groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by a resolution passed by an affirmative vote of three-quarters of the members of the board in the year immediately preceding the year of a regular election under the *Municipal Elections Act* or before the 1st day of February,

1991, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

Calculation
of members
for the
purpose of
rule 5 of
subs. (8)

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

Calculation
of members
for the
purposes of
rules 6 and 7
of subs. (8)

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

Idem

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

(a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and

(b) direct an alternative distribution of those members that represent the electors of the electoral group.

Alternative distribution

Idem

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipalities designated under clause (13) (a) shall be increased by either one or two.

Effect of resolution

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

Idem

(16) A resolution under subsection (13) has no effect unless it is made not later than five days after the date on which a distribution under subsection (11) is required to be made.

Distribution of members

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

(a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or

(b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

(a) operated by the board, or

(b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

Regulations

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

Application of section 206a

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

(a) a majority of the members of the board who are members of the French-language section; and

(b) a majority of the members of the board who are not members of the French-language section.

Referral to the Languages of Instruction Commission of Ontario

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

Idem

(5) The Languages of Instruction Commission of Ontario shall determine the calcu-

lated enrolment and the total calculated enrolment of the board within twenty days of the referral under subsection (4).

(6) If a determination is made under subsection (5), it shall be used in place of any other determination. Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

(a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;

(b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991. Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990.

Approval of by-law under s. 136a of the Education Act

23. This Act comes into force on the day it receives Royal Assent. Commence-
ment

24. The short title of this Act is the Education Amendment Act (Miscellaneous), 1990. Short title

Bill 12

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education



1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	
Royal Assent	

(Reprinted as amended by the Social Development Committee)
This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Education Act* in respect of the following matters:

1. The establishment of French-language school boards.

Section 2 of the Bill permits French-language school boards to be established by regulation. The regulation-making authority is intended to cover matters similar to those dealt with in the *Ottawa-Carleton French-Language School Board Act, 1988*.

2. The composition of boards with a French-language section.

In March 1990, the Supreme Court of Canada ruled that the number of minority language representatives on a school board should be proportional to the number of minority language students enrolled in the board's schools. This decision is implemented by subsections 14 (3) and (4) of the Bill, which amend subsections 206a (8) and (9) of the *Education Act*. Sections 15, 16, 19 and 20 of the Bill are complementary to these amendments.

3. Other matters relating to the election of board members.

Section 3 of the Bill amends section 70 of the *Education Act* so that, if a board appointed under section 70 is to be dissolved on the 1st day of January immediately following a regular election of school boards, the imminent dissolution of the section 70 board will be taken into account in the elections.

Section 4 of the Bill amends section 105 of the *Education Act* to make clear that county and district combined separate school boards may be established in any year, regardless of whether it is a regular election year. If a board is established in a year that is not a regular election year, the initial membership of the board will be determined in accordance with regulations made under section 105 of the Act.

Sections 10 and 12 of the Bill revise provisions of the *Education Act* dealing with vacancies on school boards. The new provisions make clear that, in boards composed of members elected by different electoral groups (e.g. French-language electors and English-language electors), decisions with respect to filling a vacancy will be made by the board members elected by the electoral group affected by the vacancy. The amendments also provide a sixty-day period within which vacancies are to be filled. The existing Act generally requires vacancies to be filled at the first meeting of the board after the vacancy occurs. Sections 11, 13 and 18 of the Bill are consequent on these amendments.

Subsection 14 (1) of the Bill provides for population determinations on which board sizes depend to be made earlier in the year in which a regular election is to be held. Section 1 of the Bill is complementary to this amendment.

Subsection 14 (2) of the Bill amends rule 6 of subsection 206a (6) of the *Education Act* so that a board's decision to increase or decrease the size of the board by one or two members will apply only to the board elected at the next regular election. The existing Act provides that such a decision applies to the boards elected at the next two regular elections. Section 21 of the Bill is complementary to this amendment.

Subsection 14 (5) of the Bill amends subsection 206a (13) of the *Education Act* to allow the members of a board who represent an electoral group to decide to designate a municipality as a low population municipality, thereby permitting an alternative distribution of members representing the electoral group. The existing Act requires this designation to be made by the full board. Subsection 14 (6) of the Bill is consequent on this amendment.

Section 17 of the Bill amends section 277i of the *Education Act* to make clear that the minority-language section of a board may choose to have the distribution of members determined under subsections 206a (11) to (24), instead of under section 277i.

4. The funding of secondary school instruction provided by Roman Catholic school boards when the instruction is provided through agreements with other boards.

Section 136g of the existing *Education Act* phases in provincial funding to Roman Catholic school boards that elect to perform the duties of secondary school boards. Funding is phased in at the rate of one additional grade per year until full funding is achieved. Section 5 of the Bill amends section 136g to provide full funding immediately if the Roman Catholic school board provides instruction in all secondary school grades and the instruction is provided in a school operated by another board by means of an agreement with the other board. If a board receives full funding on this basis, it may switch to providing secondary school instruction in its own schools only with the approval of the Minister of Education. Sections 6 to 9 of the Bill contain complementary amendments. Section 22 of the Bill deems a by-law of The Haldimand-Norfolk Roman Catholic Separate School Board to have been approved by the Minister of Education on the 30th day of June, 1990, so that the board may obtain full funding for the 1990-91 school year.

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act* is amended by adding the following paragraph:

- 1a. “assessment commissioner” means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. “population” means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
- (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
- (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
- (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
- (j) the dissolution of another board or a section of another board; and
- (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.

(11c) A regulation under subsection (11a) may, Idem

- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
- (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
- (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

French-language school boards

Idem

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

- (d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

Consultation before regulation under subs. (11a)

(11d) A regulation may not be made under subsection (11a) unless there has been consultation with boards and employee groups that will be directly or indirectly affected by the creation of a French-language school board under the regulation.

Repeal of subss. (11a) to (11d)

(11e) Subsections (11a), (11b), (11c) and (11d) are repealed on the 1st day of January, 1994 or on such earlier date as may be named by proclamation of the Lieutenant Governor in Council.

3. Section 70 of the Act is amended by adding the following subsection:

Revocation of order

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

- (f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

Establishment of boards

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

Idem

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school

zone shall, for the purpose of the election, be deemed to have been designated.

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations.

Idem

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in accordance with the board's first annual implementation plan in a school operated by another board by means of an agreement with the other board.

All services provided by agreement

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if,

Restriction when subs. (1) applies

- (a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or
- (b) after the first school year in which the election under section 136a is effective,
 - (i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and
 - (ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-l (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

Teaching and
other staff

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-l (6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Yearly
designations
for ten years

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

Idem

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

Maximum
limit

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

Date for
designations

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

Transfer of
employment
if subs.
136g (4) does
not apply

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

Transfer of
employment
if cl.
136g (5) (a)
applies

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transfer-

red to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

Idem

- (a) one of the boards that operates the schools, as determined by agreement of those boards; or
- (b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

Objectors

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

Second
transfer of
employment
if cl.
136g (5) (b)
applies

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

Similar
employment

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall

Training
assistance

maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to either his or her previous or newly acquired qualifications.

Seniority

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

(a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or

(b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and employment status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or rela-

tionship is transferred at the time the contract or relationship is transferred.

(20b) If the number of sick leave credits transferred exceeds the total number of sick leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

Credit for total accumulation

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Accumulation and use of sick leave credits

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

Gratuity

(a) the collective agreement that applied on the last date the person was employed by the public board that designated the person, as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or

(b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

Idem

(a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or

(b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by

Idem

the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board bears to the total number of years of service of the person with such boards.

Non-application of subss. (20d) to (20f)

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Staff dispute resolution

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-l in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

Parties

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Right to receive secondary school instruction from Roman Catholic school board

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

Right to receive secondary school instruction from public board

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a

public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

198.—(1) In this section, "electoral group" means,

Definition

- (a) in respect of a board of education or a county or district combined separate school board, an electoral group as defined in Part VII-A; and
- (b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term,

Vacancies

- (a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or
- (b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy.

Optional election

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3).

Idem

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office.

Term of office

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by

Elections for three member boards

any two electors of the board or by the appropriate supervisory officer.

Time of meeting

(2) The meeting shall take place within sixty days of the date on which the last office became vacant.

Notice of meeting

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

Election at meeting

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

Vacancy in rural separate school board before incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determination of population of electoral groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment

commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by resolution passed by three-quarters of the members of the board before the date mentioned in rule 7, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

7. Rule 6 applies if the resolution is passed before the 31st day of March in the year of the regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board deter-

Calculation of members for the purpose of rule 5 of subs. (8)

mined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

Calculation of members for the purposes of rules 6 and 7 of subs. (8)

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

Idem

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

Alternative distribution

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

(a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and

(b) direct an alternative distribution of those members that represent the electors of the electoral group.

Idem

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipali-

ties designated under clause (13) (a) shall be increased by either one or two.

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

Effect of resolution

(16) A resolution under subsection (13) has no effect unless it is passed before the 31st day of March in the year of the next regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the next regular election.

Idem

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

Distribution of members

(a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or

(b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

(a) operated by the board, or

(b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986,

chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

Regulations

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

Application of section 206a

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

- (a) a majority of the members of the board who are members of the French-language section; and
- (b) a majority of the members of the board who are not members of the French-language section.

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

Referral to the Languages of Instruction Commission of Ontario

(5) The Languages of Instruction Commission of Ontario shall determine the calculated enrolment and the total calculated enrolment of the board and shall notify the appropriate supervisory officer of its determination not later than twenty days after the referral under subsection (4).

Idem

(6) If a determination is made under subsection (5), it shall be used in place of any other determination.

Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

- (a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991.

Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990.

Approval of by-law under s. 136a of the Education Act

23. This Act comes into force on the day it receives Royal Assent.

Commencement

24. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1990*.

Short title

Bill 12

(Chapter 24
Statutes of Ontario, 1990)

An Act to amend the Education Act



The Hon. M. Boyd
Minister of Education

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 1 (1) of the *Education Act* is amended by adding the following paragraph:

- 1a. “assessment commissioner” means the assessment commissioner appointed under the *Assessment Act* for the region in which the board is situated.

(2) Paragraph 37 of subsection 1 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 27, section 1, is repealed and the following substituted:

37. “population” means the population as determined by the assessment commissioner from the last municipal enumeration as updated under the provisions of the *Assessment Act*.

2. Section 10 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1984, chapter 60, section 4, 1988, chapter 27, section 2, 1989, chapter 1, section 2, 1989, chapter 2, section 2 and 1989, chapter 33, section 1, is further amended by adding the following subsections:

(11a) The Lieutenant Governor in Council may make regulations establishing French-language school boards.

(11b) A regulation under subsection (11a) may include provisions respecting,

- (a) the area of jurisdiction of a French-language school board;
- (b) the structure of a French-language school board and, if the board has more than one component, the jurisdiction of each component;
- (c) the powers and duties of a French-language school board or a component of a French-language school board;
- (d) attendance at schools operated by a French-language school board or a component of a French-language school board;
- (e) the assessment and payment of rates in respect of a French-language school

board or a component of a French-language school board;

- (f) the election of members of a French-language school board or a component of a French-language school board, including the qualifications of electors and members;
- (g) the resolution of disputes between the components of a French-language school board and between a French-language school board and other boards;
- (h) the transfer of real property used as school sites to a French-language school board or a component of a French-language school board, and the transfer of personal property used for school purposes to a French-language school board or a component of a French-language school board;
- (i) the transfer of employees of other boards to a French-language school board or a component of a French-language school board, including the rights of transferred employees;
- (j) the dissolution of another board or a section of another board; and
- (k) the adjustment of assets and liabilities of a board affected by the establishment of a French-language school board.

(11c) A regulation under subsection (11a) may, Idem

- (a) deem a French-language school board or a component of a French-language school board to be a board for the purpose of any provision of this Act;
- (b) modify or exclude the application of any provision of this Act, the *Assessment Act* or the *Municipal Elections Act*;
- (c) deem a French-language school board or a component of a French-language school board to be a board for the purpose of the *School Boards and Teachers Collective Negotiations Act*, and deem classes of persons who are members of the Association des

French-language school boards

Idem

enseignantes et des enseignants franco-ontariens or The Ontario Secondary School Teachers' Federation to be branch affiliates for the purpose of that Act; and

- (d) deem classes of transferred employees to have been intermingled for the purpose of section 63 of the *Labour Relations Act* and make any provision of that section applicable to the affected boards and their employees.

Consultation before regulation under subs. (11a)

(11d) A regulation may not be made under subsection (11a) unless there has been consultation with boards and employee groups that will be directly or indirectly affected by the creation of a French-language school board under the regulation.

Repeal of subss. (11a) to (11d)

(11e) Subsections (11a), (11b), (11c) and (11d) are repealed on the 1st day of January, 1994 or on such earlier date as may be named by proclamation of the Lieutenant Governor.

3. Section 70 of the Act is amended by adding the following subsection:

Revocation of order

(6) If an order under subsection (1) or (2) is to be revoked on the 1st day of January next following a regular election under the *Municipal Elections Act*, the order shall, for the purpose of the election, be deemed to have been revoked.

4.—(1) Subsection 105 (2) of the Act, as amended by the Statutes of Ontario, 1989, chapter 65, section 19, is further amended by adding the following clause:

- (f) providing for the initial composition of a board to which subsection (4b) applies and for the initial appointment or election of members of the board to hold office until the next regular election under the *Municipal Elections Act*.

(2) Subsection 105 (4) of the Act, as amended by the Statutes of Ontario, 1988, chapter 27, section 16, is repealed and the following substituted:

Establishment of boards

(4) A separate school board shall be established for each county and district combined separate school zone and, except as otherwise provided under section 106 or a regulation made under subsection (2), the trustees of the board shall be elected and the board organized in accordance with sections 115 and 206a.

Idem

(4a) If a county or district combined separate school zone is to be designated by a regulation under subsection (2) on the 1st day of January next following a regular election under the *Municipal Elections Act*, the county or district combined separate school zone shall, for the purpose of the election, be deemed to have been designated.

(4b) If a county or district combined separate school zone is designated by a regulation under subsection (2) and subsection (4a) does not apply, the composition of the board and the appointment or election of members of the board shall be in accordance with the regulations. Idem

5. Section 136g of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsections:

(4) Despite subsections (1) to (3), for the first school year in which an election is effective and for every subsequent year, the entitlement of a Roman Catholic school board under section 136e applies in respect of all secondary school grades if, in the first school year, the board provides instruction in all secondary school grades and the instruction is provided in accordance with the board's first annual implementation plan in a school operated by another board by means of an agreement with the other board. All services provided by agreement

(5) A Roman Catholic school board to which subsection (4) applies may provide instruction in a secondary school grade only if, Restriction when subs. (1) applies

- (a) the instruction is provided in a school operated by another board by means of an agreement referred to in subsection (4); or

- (b) after the first school year in which the election under section 136a is effective,

- (i) the Roman Catholic school board to which subsection (4) applies files with the Planning and Implementation Commission a plan to provide instruction in all secondary school grades in a school operated by the board, and

- (ii) the Minister approves the provision of instruction in a school operated by the board after receiving the advice of the Planning and Implementation Commission that the Commission is of the opinion that the plan will permit the board to provide instruction in all secondary school grades and will promote the best interests of public education in Ontario.

6.—(1) Subsection 136-l (1) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is repealed and the following substituted:

(1) A public board that has jurisdiction in an area that is also part or all of the area of jurisdiction of a Roman Catholic school

Teaching and other staff

board shall designate, in accordance with the regulations or by agreement between the boards, the persons on its supervisory officers staff, elementary teaching staff, secondary teaching staff and support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

(2) Subsections 136-l (6) to (20) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

(6) The public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board performs the duties of a secondary school board.

(7) Subject to subsection (8), the public board shall make the designations referred to in subsection (1) in each of the first ten school years during which the Roman Catholic school board provides instruction under clause 136g (5) (b).

(8) No designations shall be made under subsection (1) after the twentieth school year during which the Roman Catholic school board performs the duties of a secondary school board.

(9) Designations shall be made under subsection (1) not later than the date prescribed by the regulations for each year.

(10) If subsection 136g (4) does not apply to the Roman Catholic school board referred to in subsection (1), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(11) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the board provides instruction in accordance with clause 136g (5) (a), the teaching contract, employment contract or employment relationship, as the case may be, of a person designated by a public board under subsection (1) is transferred to, and assumed by, the board that operates the school in which the instruction is provided under the agreement referred to in

clause 136g (5) (a), effective the 1st day of September next following the date on which the public board makes the designation or on such earlier date as the boards concerned may agree on.

(12) If more than one board operates schools in which instruction is provided under an agreement referred to in clause 136g (5) (a), the board to which a contract or relationship shall be transferred under subsection (11) shall be,

- (a) one of the boards that operates the schools, as determined by agreement of those boards; or
- (b) in the absence of an agreement, the Roman Catholic school board referred to in subsection (1).

(13) If a designated person objects for reasons of conscience to the transfer of employment to a Roman Catholic school board under subsection (10) or (11), he or she may so advise the public board and, unless it is of the opinion that the objection is not made in good faith, the public board shall designate another person in place of the person making the objection.

(14) If subsection 136g (4) applies to the Roman Catholic school board referred to in subsection (1) and the Minister approves the provision of instruction in a school operated by the board under clause 136g (5) (b), a teaching contract, employment contract or employment relationship transferred under subsection (11) to another board is transferred to, and assumed by, the Roman Catholic school board referred to in subsection (1), effective on the date the board begins to provide instruction under clause 136g (5) (b) or on such earlier date as the boards concerned may agree on.

(15) A board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) shall employ the person in a position substantially similar to the position in which the person was employed immediately before the transfer.

(16) If the board to which the teaching contract, employment contract or employment relationship of a person is transferred under subsection (10), (11) or (14) has no position as provided under subsection (15) for the person on the appropriate staff of the board, the person is entitled to receive training assistance, as prescribed by the regulations, for an alternate position on the appropriate staff, and the board to which the contract or relationship is transferred shall maintain the person in its employ, provide the assistance and offer to the person employment in a position appropriate to

Yearly designations for ten years

Idem

Maximum limit

Date for designations

Transfer of employment if subs. 136g (4) does not apply

Transfer of employment if cl. 136g (5) (a) applies

Idem

Objectors

Second transfer of employment if cl. 136g (5) (b) applies

Similar employment

Training assistance

either his or her previous or newly acquired qualifications.

Seniority

(17) Subject to any collective agreement in effect, the public board shall designate, on the basis of seniority, the persons on its support staff whose services will not be required by the public board consequent on,

- (a) the election of the Roman Catholic school board to perform the duties of a secondary school board; or
- (b) the provision of instruction by the Roman Catholic school board under clause 136g (5) (b).

Transmittal
of lists

(18) Each public board that designates persons under this section shall transmit to the Planning and Implementation Commission in each year, not later than the date for each year fixed by the Commission, a list of the names and positions of persons that it has designated.

Compensation
rate

(19) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right in the first year that the person is employed by the board to an annual rate of salary of not less than the annual rate of salary that would have applied to the person if the contract or relationship had not been transferred, but if the annual rate of salary of the position in which the person is employed by the board to which the contract or relationship is transferred is lower than such first-mentioned annual rate of salary, the person is not entitled to any increase in annual rate of salary until the annual rate of salary of the position becomes equal to such first-mentioned annual rate of salary.

Seniority and
employment
status

(20) A designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) has the right to commence the employment with seniority and with probationary and permanent status with the board equal to the seniority and the probationary or permanent status the person would have had if the contract or relationship had not been transferred.

Sick leave
credits

(20a) Sick leave credits standing to a designated person's credit immediately before the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) shall be transferred to the plan maintained by the board to which the contract or relationship is transferred at the time the contract or relationship is transferred.

Credit for
total accumu-
lation

(20b) If the number of sick leave credits transferred exceeds the total number of sick

leave credits that may be accumulated under the plan to which they are transferred, the designated person shall be given credit in the plan for the number transferred but is not entitled to accumulate further sick leave credits under the plan unless the plan is amended to permit greater accumulation.

(20c) Subject to subsection (20b), a designated person employed by a board to which the person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14) is entitled to accumulate and to use sick leave credits in accordance with the plan maintained by the board to which the contract or relationship is transferred.

Accumulation
and use of
sick leave
credits

(20d) On termination of employment with the board to which a designated person's teaching contract, employment contract or employment relationship is transferred under subsection (10), (11) or (14), the person is entitled to payment of an amount calculated in accordance with,

Gratuity

- (a) the collective agreement that applied on the last date the person was employed by the public board that designated the person, as though the person had been in the continuous employ of the public board, if a collective agreement applied in respect of the person on that date; or
- (b) the policy of the public board that designated the person as of the last date he or she was employed by the public board, as though the person had been in the continuous employ of the public board, if no collective agreement applied in respect of the person on that date.

(20e) In lieu of the payment under subsection (20d), the designated person is entitled to require payment of an amount calculated in accordance with,

Idem

- (a) the collective agreement that applies in respect of the person on the last date the person is employed before the termination of employment, if a collective agreement applies in respect of the person on that date; or
- (b) the policy of the board with which the person is employed as of the last date he or she is employed by that board, if no collective agreement applies in respect of the person on that date.

(20f) The amount of the payment under subsection (20d) or (20e) shall be shared by the public board that designated the person and the board or boards to which the person's employment was transferred under this section in the ratio that the number of years of service of the person with each board

Idem

bears to the total number of years of service of the person with such boards.

Non-application of subss. (20d) to (20f)

(20g) Subsections (20d) to (20f) do not apply to a termination of employment with a board that occurs when the teaching contract, employment contract or employment relationship of the person is transferred to another board under subsection (10), (11) or (14).

7. Subsections 136m (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Staff dispute resolution

(1) A dispute in respect of the designation of or the failure to designate a person on the teaching or other staffs of a public board, or in respect of any matter arising under section 136-l in the employment relationship between a designated person and a board to which the person's teaching contract, employment contract or employment relationship was transferred under that section, may be resolved by a grievance arbitration procedure in accordance with this section.

Parties

(2) The parties to the arbitration are the public board or the board to which the contract or relationship was transferred, as the case requires, and the person or, if the person is employed in accordance with the terms of a collective agreement, the organization that represents the person under the collective agreement.

8. Section 136md of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by striking out "public board or Roman Catholic school board" in the fifth and sixth lines and substituting "board".

9. Subsections 136o (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, are repealed and the following substituted:

Right to receive secondary school instruction from Roman Catholic school board

(1) A person who is qualified to be a resident pupil of a public board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a Roman Catholic school board if the area of jurisdiction of the public board is in whole or in part the same as the area of jurisdiction of the Roman Catholic school board.

Right to receive secondary school instruction from public board

(2) A person who is qualified to be a resident pupil of a Roman Catholic school board and to receive instruction in a secondary school grade is entitled to receive instruction provided in a secondary school operated by a public board if the area of jurisdiction of the Roman Catholic school board is in whole or in part the same as the area of jurisdiction of the public board.

10. Section 198 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 54, is repealed and the following substituted:

198.—(1) In this section, "electoral group" means, Definition

- (a) in respect of a board of education or a county or district combined separate school board, an electoral group as defined in Part VII-A; and
- (b) in respect of any other board, the persons qualified to be electors of the board.

(2) Subject to section 202, if the office of a member of a board elected by an electoral group becomes vacant before the end of the member's term, Vacancies

- (a) the remaining members elected by the electoral group shall appoint a qualified person to fill the vacancy within sixty days after the office becomes vacant, if a majority of the members elected by the electoral group remain in office; or
- (b) a new election shall be held to fill the vacancy, in the same manner as an election of the board, if a majority of the members elected by the electoral group do not remain in office.

(3) Despite clause (2) (a), if elections of the board are held under the *Municipal Elections Act* and the vacancy occurs in a year in which no regular election is held under that Act or before the 1st day of April in the year of a regular election, the remaining members elected by the electoral group may by resolution require that an election be held in accordance with the *Municipal Elections Act* to fill the vacancy. Optional election

(4) The secretary of the board shall forthwith send to the clerk of the appropriate municipality a certified copy of the resolution under subsection (3). Idem

(5) A member appointed or elected to fill a vacancy shall hold office for the remainder of the term of the member who vacated the office. Term of office

11. Sections 199, 200 and 201 of the Act are repealed and the following substituted:

199.—(1) If an election is required to fill a vacancy on a board that is composed of three members and there are fewer than two remaining members of the board, a meeting of the electors may be called by any two electors of the board or by the appropriate supervisory officer. Elections for three member boards

(2) The meeting shall take place within sixty days of the date on which the last office became vacant. Time of meeting

Notice of
meeting

(3) At least six days before the meeting, the person or persons calling the meeting shall post a notice of the meeting in at least three public places within the area of jurisdiction of the board.

Election at
meeting

(4) The electors at the meeting shall elect the required number of board members to fill the vacancies.

Vacancy in
rural separate
school board
before
incorporation

200.—(1) If a vacancy occurs in the office of a trustee of a rural separate school before the trustees become a body corporate, the remaining trustees shall forthwith take steps to hold a new election to fill the vacancy, and the person elected shall hold office for the remainder of the term of the trustee who vacated the office.

Manner of
election

(2) The new election shall be conducted in the same manner as an election of the whole board.

12. Section 203 of the Act is amended by adding the following subsection:

Extension of
time limits

(2) The remaining members of the board may extend the time for the nomination and the polling under subsection (1), but the polling shall be held no later than sixty days after the office becomes vacant.

13. Section 205 of the Act is repealed and the following substituted:

Tie vote

205. If two or more candidates receive an equal number of votes at a meeting held under clause 198 (2) (a) to appoint a person to fill a vacancy or at a meeting to elect a person to fill a vacancy, the chairman of the meeting shall provide for the drawing of lots to determine which of the candidates shall be appointed or elected.

14.—(1) Section 206a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24 and amended by 1989, chapter 65, section 33, is further amended by adding the following subsections:

Determi-
nation of
population of
electoral
groups

(4a) The assessment commissioner shall determine the populations of the electoral groups for the purposes of this Part on the 1st day of January in the year of a regular election under the *Municipal Elections Act*.

Idem

(4b) The assessment commissioner shall provide the results of the determination of the population of a board's electoral groups made under subsection (4a) to the secretary of the board and to the clerk of each municipality in the jurisdiction of the assessment commissioner by the 15th day of February in the year of a regular election.

(2) Rule 6 of subsection 206a (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

6. If a board approves an increase or decrease of either one or two in the number of members of the board by resolution passed by three-quarters of the members of the board before the date mentioned in rule 7, the number of members of the board shall be deemed to be increased or decreased in accordance with the resolution for the next regular election.

7. Rule 6 applies if the resolution is passed before the 31st day of March in the year of the regular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the regular election.

(3) Rules 5, 6, 7, 8, 9 and 10 of subsection 206a (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

5. The number of members to be elected by the total French-language electoral group shall be calculated in accordance with the formula set out in subsection (9).

6. The number of members to be elected by the electors of the public school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

7. The number of members to be elected by the electors of the separate school English-language electoral group shall be calculated in accordance with subsection (9a) or (9b), as the case requires.

(4) Subsection 206a (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, is repealed and the following substituted:

(9) For the purpose of rule 5 of subsection (8), the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{a \times b}{c}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the calculated enrolment of the board as determined under section 277q

c = the total calculated enrolment of the board as determined under section 277q.

Calculation
of members
for the
purpose of
rule 5 of
subs. (8)

Calculation of members for the purposes of rules 6 and 7 of subs. (8)

(9a) For the purposes of rules 6 and 7 of subsection (8), if there is only one English-language electoral group, the number of members of that electoral group is calculated by subtracting from the total number of members of the board determined by the rules in subsection (6), the number of members calculated in subsection (9).

Idem

(9b) For the purposes of rules 6 and 7 of subsection (8), if there are two English-language electoral groups, the number of members shall be calculated using the following formula:

$$\text{number of members} = \frac{(a-b) \times e}{(c-d)}$$

where a = the total number of members of the board determined by the rules in subsection (6)

b = the number of members calculated under subsection (9)

c = the total population of all electoral groups of the board determined under rule 3 of subsection (6)

d = the population of the total French-language electoral group

e = the population of the electoral group to which rule 6 or 7 applies.

(5) Subsections 206a (13), (14), (15), (16) and (17) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 27, section 24, are repealed and the following substituted:

(13) The members of the board who represent an electoral group may by resolution passed by an affirmative vote of three-quarters of those members,

(a) designate one or more municipalities within the board's jurisdiction as low population municipalities; and

(b) direct an alternative distribution of those members that represent the electors of the electoral group.

Alternative distribution

Idem

(14) If an alternative distribution is directed under clause (13) (b), the resolution shall provide that the sum of the electoral quotients for the municipality or municipalities designated under clause (13) (a) shall be increased by either one or two.

Effect of resolution

(15) A resolution passed under subsection (13) shall be effective only for the next regular election.

Idem

(16) A resolution under subsection (13) has no effect unless it is passed before the 31st day of March in the year of the next reg-

ular election or, if the determination of the calculated enrolment and the total calculated enrolment of the board is referred to the Languages of Instruction Commission of Ontario under subsection 277q (4), before the 30th day of April in the year of the next regular election.

(17) If a resolution is passed under subsection (13), an alternative distribution of those members that represent the electors of the electoral group shall be made in accordance with subsection (18) by the person prescribed by the regulations to,

Distribution of members

(a) the municipalities or combination of municipalities that comprise the area of jurisdiction of a board; or

(b) the electoral areas established under subsection (21) or combination of such electoral areas in a municipality.

(6) Rule 3 of subsection 206a (18) of the Act is amended by striking out "subsection (14)" in the last line and substituting "subsection (13)".

15.—(1) The definition of "calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"calculated enrolment" means a number of pupils enrolled in French-language instructional units, calculated in accordance with the regulations.

(2) The definition of "resident pupil" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"resident pupil", in respect of a board, means a pupil who is registered on a register or registers prescribed by the Minister for the purposes of this Part and who is qualified to be a resident pupil of the board and is enrolled in a school,

(a) operated by the board, or

(b) operated by another board to which the first-mentioned board pays fees in respect of the pupil.

(3) The definition of "total calculated enrolment" set out in section 277c of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed and the following substituted:

"total calculated enrolment" means a number of pupils calculated in accordance with the regulations.

16. The Act is amended by adding the following section:

Regulations

277ca. The Lieutenant Governor in Council may by regulation prescribe the method of calculation of calculated enrolment and total calculated enrolment.

17. Section 277i of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 27, is further amended by adding the following subsection:

Application of section 206a

(14) Despite subsections (1) to (13), the French-language section of a board may by resolution approved by a majority of the members of the section direct that an election of members to the section shall be subject to subsections 206a (11) to (24).

18. Section 277-l of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, is repealed.

19. Section 277q of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11 and amended by 1988, chapter 27, section 28, is repealed and the following substituted:

Calculated enrolment

277q.—(1) A determination of the calculated enrolment of a board and the total calculated enrolment of a board shall be made by the appropriate supervisory officer of the board.

When calculation made

(2) The calculated enrolment and the total calculated enrolment shall be determined on or before the 1st day of February in the year in which a regular election will be held under the *Municipal Elections Act*.

Approval of calculation

(3) On or before the 1st day of March in a year in which a regular election will be held under the *Municipal Elections Act*, the determination of the calculated enrolment and the total calculated enrolment made under subsection (1) shall be confirmed by resolution by,

- (a) a majority of the members of the board who are members of the French-language section; and
- (b) a majority of the members of the board who are not members of the French-language section.

Referral to the Languages of Instruction Commission of Ontario

(4) If no determination is made under subsection (1) or a determination is not confirmed under subsection (3), the appropriate

supervisory officer shall refer the matter to the Languages of Instruction Commission of Ontario on or before the 15th day of March in a year in which a regular election will be held under the *Municipal Elections Act*.

(5) The Languages of Instruction Commission of Ontario shall determine the calculated enrolment and the total calculated enrolment of the board and shall notify the appropriate supervisory officer of its determination not later than twenty days after the referral under subsection (4). Idem

(6) If a determination is made under subsection (5), it shall be used in place of any other determination. Idem

20. Clauses 277t (2) (a) and (b) of the Act, as enacted by the Statutes of Ontario, 1986, chapter 29, section 11, are repealed and the following substituted:

- (a) a reference in this Part or in a regulation under this Part to French, other than in this subsection and subsection (3), shall be deemed to be a reference to English;
- (b) a reference in this Part or in a regulation under this Part to French language shall be deemed to be a reference to English language; and

21. An increase or a decrease in the number of the members of a board approved under rule 6 of subsection 206a (6) of the Act prior to the regular election in 1988 shall be void for the purpose of the regular election in 1991. Transition

22. By-law SS1/89 of The Haldimand-Norfolk Roman Catholic Separate School Board, passed under section 136a of the Act on the 18th day of December, 1989 and amended on the 26th day of February, 1990, shall be deemed to have been approved by the Minister of Education on the 30th day of June, 1990. Approval of by-law under s. 136a of the Education Act

23. This Act comes into force on the day it receives Royal Assent. Commencement

24. The short title of this Act is the *Education Amendment Act (Miscellaneous)*, 1990. Short title

42 ON
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Bill 13	Government Bill	Projet de loi 13	du gouvernement
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1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 13

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

The Hon. M. Boyd
Minister of Education

Projet de loi 13

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

L'honorable M. Boyd
Ministre de l'Éducation



1st Reading December 4th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 4 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

SECTION 1. This section revises subsection 30 (1) of the Act to permit a vacancy in the office of a member of a sector to be filled within sixty days. The existing Act requires vacancies to be filled at the next regular meeting. The amendment is complementary to similar amendments to the *Education Act* proposed in the *Education Amendment Act (Miscellaneous), 1990*.

SECTION 2. The amendment to subsection 35 (2) of the Act is consequent on amendments to section 206a of the *Education Act* proposed in the *Education Amendment Act (Miscellaneous), 1990*.

NOTES EXPLICATIVES

ARTICLE 1 Cet article modifie le paragraphe 30 (1) de la Loi afin de permettre que soit comblée une vacance au poste d'un membre d'une section dans un délai de soixante jours, alors que la Loi actuelle exige que les vacances soient comblées à la prochaine réunion ordinaire. Cette modification est un complément à des modifications semblables que propose d'apporter à la *Loi sur l'éducation* la *Loi de 1990 modifiant la Loi sur l'éducation (dispositions diverses)*.

ARTICLE 2 La modification apportée au paragraphe 35 (2) de la Loi est consécutive aux modifications que propose d'apporter à l'article 206a de la *Loi sur l'éducation* la *Loi de 1990 modifiant la Loi sur l'éducation (dispositions diverses)*.

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 30 (1) of the *Ottawa-Carleton French-Language School Board Act, 1988* is repealed and the following substituted:

Vacancies

(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, within sixty days after the office becomes vacant, appoint to the office a person who is qualified to be elected as a member of the sector.

2. Subsection 35 (2) of the Act is amended by striking out “subsections 206a (13), (14), (17) and (21)” in the second line and substituting “subsections 206a (13) and (21)”.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Ottawa-Carleton French-Language School Board Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 30 (1) de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton* est abrogé et remplacé par ce qui suit :

Vacances

(1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, dans les soixante jours après que le poste est devenu vacant, une personne qui est éligible comme membre de la section.

2 Le paragraphe 35 (2) de la Loi est modifié par substitution, aux mots «des paragraphes 206a (13), (14), (17) et (21)» à la deuxième ligne, des mots «des paragraphes 206a (13) et (21)».

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

4 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton*.

Titre abrégé

Bill 13

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 13

(Chapter 25
Statutes of Ontario, 1990)

**An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988**

The Hon. M. Boyd
Minister of Education

1st Reading	December 4th, 1990
2nd Reading	December 13th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

*This Bill has been reprinted to conform to the new
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Projet de loi 13

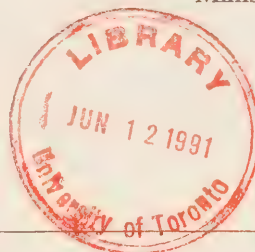
1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Projet de loi 13

(Chapitre 25
Lois de l'Ontario de 1990)

**Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

L'honorable M. Boyd
Ministre de l'Éducation



1 ^{re} lecture	4 décembre 1990
2 ^e lecture	13 décembre 1990
3 ^e lecture	20 décembre 1990
sanction royale	20 décembre 1990

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nouveau format d'impression*

Imprimé avec l'autorisation
de l'Assemblée législative par
©l'Imprimeur de la Reine pour l'Ontario

Bill 13**1990****Projet de loi 13****1990****An Act to amend the Ottawa-Carleton
French-Language School Board Act,
1988****Loi portant modification de la Loi de
1988 sur le Conseil scolaire de langue
française d'Ottawa-Carleton**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 30 (1) of the *Ottawa-Carleton French-Language School Board Act, 1988* is repealed and the following substituted:

Vacancies

(1) If the office of a member of a sector becomes vacant and the remaining members constitute a majority of the members elected to it, the remaining members shall, within sixty days after the office becomes vacant, appoint to the office a person who is qualified to be elected as a member of the sector.

2. Subsection 35 (2) of the Act is amended by striking out “subsections 206a (13), (14), (17) and (21)” in the second line and substituting “subsections 206a (13) and (21)”.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Ottawa-Carleton French-Language School Board Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 Le paragraphe 30 (1) de la *Loi de 1988 sur le Conseil scolaire de langue française d'Ottawa-Carleton* est abrogé et remplacé par ce qui suit :

Vacances

(1) Si le poste d'un membre d'une section devient vacant et que le reste des membres constituent la majorité des membres élus, les membres qui restent nomment à ce poste, dans les soixante jours après que le poste est devenu vacant, une personne qui est éligible comme membre de la section.

2 Le paragraphe 35 (2) de la Loi est modifié par substitution, aux mots «des paragraphes 206a (13), (14), (17) et (21)» à la deuxième ligne, des mots «des paragraphes 206a (13) et (21)».

3 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

4 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le Conseil scolaire de langue française d'Ottawa-Carleton*.

Titre abrégé

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 14

An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave

The Hon. B. Mackenzie

Minister of Labour



1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Employment Standards Act* to change the existing scheme for pregnancy leave and to introduce a scheme for parental leave.

For pregnancy leave the qualification period is shortened. Employees are entitled to leave if they started employment at least thirteen weeks before the expected birth date (subsection 36 (1)). Leave may be commenced earlier, up to seventeen weeks before the expected birth date (subsection 36 (2)). Employees are given rights to continue certain benefits during the leave (section 38e).

A parental leave of up to eighteen weeks is introduced for employees who have been employed at least thirteen weeks (subsection 38a (1)). The meaning of "parent" is extended to include persons who have a lasting relationship to a parent of a child and intend to treat the child as their own (section 35). The leave can begin within thirty-five weeks after the child is born or comes into the care of a parent for the first time (subsection 38a (2)). Employees have the same rights to benefits during leave as employees on pregnancy leave (section 38e).

An employee who stopped work or ended pregnancy leave on or after November 18, 1990 but before this Bill comes into force and who would have been entitled to leave under the new scheme is, in certain circumstances, deemed to have taken leave (sections 38h, 38i).

Section 3 of the Bill amends subsection 47 (1) of the Act so that an employment standards officer's order to an employer to pay amounts under the Part on pregnancy and parental leave is not subject to a \$4,000 limitation.

An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The heading preceding section 35 of the *Employment Standards Act* is repealed and the following substituted:

PREGNANCY AND PARENTAL LEAVE

2. Sections 35, 36, 37 and 38 of the Act are repealed and the following substituted:

Definitions

35. In this Part,

“parent” includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own;

“parental leave” means a leave of absence under subsection 38a (1);

“pregnancy leave” means a leave of absence under subsection 36 (1).

Pregnancy leave

36.—(1) A pregnant employee who started employment with her employer at least thirteen weeks before the expected birth date is entitled to a leave of absence without pay.

When leave may begin

(2) An employee may begin pregnancy leave no earlier than seventeen weeks before the expected birth date.

Notice

(3) The employee must give the employer,

(a) at least two weeks written notice of the date the leave is to begin; and

(b) a certificate from a legally qualified medical practitioner stating the expected birth date.

Special circumstances

37.—(1) Subsection 36 (3) does not apply in the case of an employee who stops working because of complications caused by her pregnancy or because of a birth, still-birth or miscarriage that happens earlier than the employee was expected to give birth.

Notice in special circumstances

(2) An employee described in subsection (1) must, within two weeks of stopping work, give the employer,

(a) written notice of the date the pregnancy leave began or is to begin; and

(b) a certificate from a legally qualified medical practitioner that,

(i) in the case of an employee who stops working because of complications caused by her pregnancy, states the employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date, or

(ii) in any other case, states the date of the birth, still-birth or miscarriage and the date the employee was expected to give birth.

38.—(1) The pregnancy leave of an employee who is entitled to take parental leave ends seventeen weeks after the pregnancy leave began.

End of pregnancy leave if parental leave available

(2) The pregnancy leave of an employee who is not entitled to take parental leave ends on the later of the day that is seventeen weeks after the pregnancy leave began or the day that is six weeks after the birth, still-birth or miscarriage.

End of pregnancy leave if parental leave not available

(3) The pregnancy leave of an employee ends on a day earlier than the day provided for in subsection (1) or (2) if the employee gives the employer at least four weeks written notice of that day.

End of pregnancy leave on employee notice

38a.—(1) An employee who has been employed by his or her employer for at least thirteen weeks and who is the parent of a child is entitled to a leave of absence without pay following,

Parental leave

(a) the birth of the child; or

(b) the coming of the child into the custody, care and control of a parent for the first time.

(2) Parental leave may begin no more than thirty-five weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

Restriction on when leave may begin

When mother's parental leave may begin

(3) The parental leave of an employee who takes a pregnancy leave must begin when the pregnancy leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

Notice

(4) The employee must give the employer at least two weeks written notice of the date the leave is to begin.

Special circumstances

38b.—(1) Subsection 38a (4) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the custody, care and control of a parent for the first time sooner than expected.

When leave in special circumstances begins

(2) The parental leave of an employee described in subsection (1) begins on the day the employee stops working.

Notice

(3) An employee described in subsection (1) must give the employer written notice that the employee wishes to take leave within two weeks after the employee stops working.

End of parental leave

38c. Parental leave ends eighteen weeks after it began or on an earlier day if the employee gives the employer at least four weeks written notice of that day.

Change of notice to begin leave

38d.—(1) An employee who has given notice to begin pregnancy leave or parental leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least two weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least two weeks written notice before the date leave was to begin.

Change of notice to end leave

(2) An employee who has given notice to end leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least four weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least four weeks written notice before the date leave was to end.

Rights during leave

38e.—(1) During pregnancy leave or parental leave, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so.

Benefit plans

(2) For the purpose of subsection (1), the types of plans are pension plans, life insurance plans, accidental death plans, extended health plans, dental plans and any other types of benefit plans that are prescribed.

Employer contributions

(3) During an employee's pregnancy leave or parental leave, the employer shall continue to make the employer's contributions

for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any.

(4) Seniority continues to accrue during pregnancy leave or parental leave.

Seniority

38f.—(1) The employer of an employee who has taken pregnancy leave or parental leave shall reinstate the employee when the leave ends to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not.

Reinstatement

(2) If the employer's operations were suspended or discontinued while the employee was on leave and have not resumed when the leave ends, the employer shall reinstate the employee, when the operations resume, in accordance with the employer's seniority system or practice, if any.

Reinstatement where employer's operations have been suspended, etc.

(3) The employer shall pay a reinstated employee wages that are at least equal to the greater of,

Wages

- (a) the wages the employee was most recently paid by the employer; or
- (b) the wages that the employee would be earning had the employee worked throughout the leave.

38g. An employer shall not intimidate, discipline, suspend, lay off, dismiss or impose a penalty on an employee because the employee is or will become eligible to take, intends to take or takes pregnancy leave or parental leave.

No discipline, etc., because of leave

38h.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force and who would have been entitled to pregnancy leave if section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990 had come into force before she stopped work.

Transitional, pregnancy leave

(2) A person to whom this section applies shall be deemed to have taken a pregnancy leave beginning when the person stopped work if,

Idem

- (a) the stopping of work was related to the person's pregnancy; and
- (b) when the person stopped work, she was not entitled to pregnancy leave.

38i.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force, whether or not the person took a pregnancy leave that ended during that period, or whose pregnancy leave ended during that period and

Transitional, parental leave

who did not return to work if the person would have been entitled to parental leave had section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990 come into force before the person stopped work or before the pregnancy leave ended.

Idem

(2) A person to whom this section applies shall be deemed to have taken a parental leave beginning when the person stopped work or when the person's pregnancy leave ended if the stopping of work or the not returning to work was related to the birth of a child or to the coming of a child into the custody, care and control of a parent for the first time.

Transitional,
benefits

38j. Section 38e does not apply in respect of any period before this section comes into force.

3. Subclauses 47 (1) (c) (i) and (ii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3, are repealed and the following substituted:

(i) the sum of \$4,000 with respect to any wages other than the employee's severance pay or an amount payable to the employee under Part XI, plus

(ii) the amount of the employee's severance pay, if any, plus

(iii) the amount payable to the employee under Part XI.

4. Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7, is further amended by adding the following clause:

(ra) prescribing types of benefit plans for the purpose of subsection 38e (2).

5. This Act comes into force on the day it receives Royal Assent. Commence-
ment

6. The short title of this Act is the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990. Short title

Bill 14

(Chapter 26
Statutes of Ontario, 1990)

An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave



The Hon. B. Mackenzie
Minister of Labour

1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 18th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Employment Standards Act with respect to Pregnancy and Parental Leave

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The heading preceding section 35 of the *Employment Standards Act* is repealed and the following substituted:

PREGNANCY AND PARENTAL LEAVE

2. Sections 35, 36, 37 and 38 of the Act are repealed and the following substituted:

Definitions

35. In this Part,

“parent” includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own;

“parental leave” means a leave of absence under subsection 38a (1);

“pregnancy leave” means a leave of absence under subsection 36 (1).

Pregnancy leave

36.—(1) A pregnant employee who started employment with her employer at least thirteen weeks before the expected birth date is entitled to a leave of absence without pay.

When leave may begin

(2) An employee may begin pregnancy leave no earlier than seventeen weeks before the expected birth date.

Notice

(3) The employee must give the employer,

(a) at least two weeks written notice of the date the leave is to begin; and

(b) a certificate from a legally qualified medical practitioner stating the expected birth date.

Special circumstances

37.—(1) Subsection 36 (3) does not apply in the case of an employee who stops working because of complications caused by her pregnancy or because of a birth, still-birth or miscarriage that happens earlier than the employee was expected to give birth.

Notice in special circumstances

(2) An employee described in subsection (1) must, within two weeks of stopping work, give the employer,

(a) written notice of the date the pregnancy leave began or is to begin; and

(b) a certificate from a legally qualified medical practitioner that,

(i) in the case of an employee who stops working because of complications caused by her pregnancy, states the employee is unable to perform her duties because of complications caused by her pregnancy and states the expected birth date, or

(ii) in any other case, states the date of the birth, still-birth or miscarriage and the date the employee was expected to give birth.

38.—(1) The pregnancy leave of an employee who is entitled to take parental leave ends seventeen weeks after the pregnancy leave began.

End of pregnancy leave if parental leave available

(2) The pregnancy leave of an employee who is not entitled to take parental leave ends on the later of the day that is seventeen weeks after the pregnancy leave began or the day that is six weeks after the birth, still-birth or miscarriage.

End of pregnancy leave if parental leave not available

(3) The pregnancy leave of an employee ends on a day earlier than the day provided for in subsection (1) or (2) if the employee gives the employer at least four weeks written notice of that day.

End of pregnancy leave on employee notice

38a.—(1) An employee who has been employed by his or her employer for at least thirteen weeks and who is the parent of a child is entitled to a leave of absence without pay following,

Parental leave

(a) the birth of the child; or

(b) the coming of the child into the custody, care and control of a parent for the first time.

(2) Parental leave may begin no more than thirty-five weeks after the day the child is born or comes into the custody, care and control of a parent for the first time.

Restriction on when leave may begin

When mother's parental leave may begin

(3) The parental leave of an employee who takes a pregnancy leave must begin when the pregnancy leave ends unless the child has not yet come into the custody, care and control of a parent for the first time.

Notice

(4) The employee must give the employer at least two weeks written notice of the date the leave is to begin.

Special circumstances

38b.—(1) Subsection 38a (4) does not apply in the case of an employee who is the parent of a child and who stops working because the child comes into the custody, care and control of a parent for the first time sooner than expected.

When leave in special circumstances begins

(2) The parental leave of an employee described in subsection (1) begins on the day the employee stops working.

Notice

(3) An employee described in subsection (1) must give the employer written notice that the employee wishes to take leave within two weeks after the employee stops working.

End of parental leave

38c. Parental leave ends eighteen weeks after it began or on an earlier day if the employee gives the employer at least four weeks written notice of that day.

Change of notice to begin leave

38d.—(1) An employee who has given notice to begin pregnancy leave or parental leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least two weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least two weeks written notice before the date leave was to begin.

Change of notice to end leave

(2) An employee who has given notice to end leave may change the notice,

- (a) to an earlier date if the employee gives the employer at least four weeks written notice before the earlier date; or
- (b) to a later date if the employee gives the employer at least four weeks written notice before the date leave was to end.

Rights during leave

38e.—(1) During pregnancy leave or parental leave, an employee continues to participate in each type of benefit plan described in subsection (2) that is related to his or her employment unless he or she elects in writing not to do so.

Benefit plans

(2) For the purpose of subsection (1), the types of plans are pension plans, life insurance plans, accidental death plans, extended health plans, dental plans and any other types of benefit plans that are prescribed.

Employer contributions

(3) During an employee's pregnancy leave or parental leave, the employer shall continue to make the employer's contributions

for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee's contributions, if any.

(4) Seniority continues to accrue during pregnancy leave or parental leave.

Seniority

38f.—(1) The employer of an employee who has taken pregnancy leave or parental leave shall reinstate the employee when the leave ends to the position the employee most recently held with the employer, if it still exists, or to a comparable position, if it does not.

Reinstatement

(2) If the employer's operations were suspended or discontinued while the employee was on leave and have not resumed when the leave ends, the employer shall reinstate the employee, when the operations resume, in accordance with the employer's seniority system or practice, if any.

Reinstatement where employer's operations have been suspended, etc.

(3) The employer shall pay a reinstated employee wages that are at least equal to the greater of,

Wages

- (a) the wages the employee was most recently paid by the employer; or
- (b) the wages that the employee would be earning had the employee worked throughout the leave.

38g. An employer shall not intimidate, discipline, suspend, lay off, dismiss or impose a penalty on an employee because the employee is or will become eligible to take, intends to take or takes pregnancy leave or parental leave.

No discipline, etc. because of leave

38h.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force and who would have been entitled to pregnancy leave if section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990 had come into force before she stopped work.

Transitional, pregnancy leave

(2) A person to whom this section applies shall be deemed to have taken a pregnancy leave beginning when the person stopped work if,

Idem

- (a) the stopping of work was related to the person's pregnancy; and
- (b) when the person stopped work, she was not entitled to pregnancy leave.

38i.—(1) This section applies to a person who stopped work on or after the 18th day of November, 1990 but before the day this section comes into force, whether or not the person took a pregnancy leave that ended during that period, or whose pregnancy leave ended during that period and

Transitional, parental leave

who did not return to work if the person would have been entitled to parental leave had section 2 of the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990 come into force before the person stopped work or before the pregnancy leave ended.

Idem

(2) A person to whom this section applies shall be deemed to have taken a parental leave beginning when the person stopped work or when the person's pregnancy leave ended if the stopping of work or the not returning to work was related to the birth of a child or to the coming of a child into the custody, care and control of a parent for the first time.

Transitional,
benefits

38j. Section 38e does not apply in respect of any period before this section comes into force.

3. Subclauses 47 (1) (c) (i) and (ii) of the Act, as enacted by the Statutes of Ontario, 1981, chapter 22, section 3, are repealed and the following substituted:

(i) the sum of \$4,000 with respect to any wages other than the employee's severance pay or an amount payable to the employee under Part XI, plus

(ii) the amount of the employee's severance pay, if any, plus

(iii) the amount payable to the employee under Part XI.

4. Subsection 65 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 30, section 7, is further amended by adding the following clause:

(ra) prescribing types of benefit plans for the purpose of subsection 38e (2).

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

6. The short title of this Act is the *Employment Standards Amendment Act (Pregnancy and Parental Leave)*, 1990.

Short title

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Bill 15

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman
Minister Responsible for Native Affairs



1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to fulfil Ontario's obligations to transfer land in Manitoulin, Barrie and Cockburn Islands under an agreement entered into by five First Nations and Ontario.

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

- (a) is in actual use as a public highway or road; and
- (b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municipi-

pal authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

- (a) the road allowances closed by subsection 1 (1); and
- (b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

Road allowances closed

Closed road allowances vest in Canada

Mineral rights

Right of way

Public highways in actual use

Idem

Idem

Idem

Road allowances vest in municipalities

Exception

Schedule 2 land vests in Canada

Mineral rights in Schedule 2 land

Water and sewage works easement

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, **SAVE AND EXCEPT** that portion of the said road allowance in front of Lot 11, Concession 22, and also **SAVE AND EXCEPT** that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshewaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshewaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshewaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshewaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshewaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshewaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshewaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lots 20 and 21, Concessions 20 and 21.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in THIRDLY, FOURTHLY and FIFTHLY above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, SAVE AND EXCEPT that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, SAVE AND EXCEPT that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, SAVE AND EXCEPT that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on

a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession 1 in the Township of Billings.

SAVE AND EXCEPT from the lots, streets and road allowances described as FIRSTLY through SEVENTEENTHLY above, those parts of the said lots and streets that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 14, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2

FIRSTLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,
Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,
Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, SAVE AND EXCEPT those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,
Lot 24, Concession 15,
Lots 20, 21, and 22, Concession 20,
Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugigansing in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the southern limit of the road allowance between the Townships of Billings and Carnarvon intersects the eastern shore of

Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assiginack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assiginack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little Current)
Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth
Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolsmaville
Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolsmaville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22, both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 2 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

as shown on the plan of the Town Plot of Tolsma-ville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.

Bill 15

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman

Minister Responsible for Native Affairs



1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	
Royal Assent	

*(Reprinted as amended by the Committee of the Whole House)
This Bill has been reprinted to conform to the new printing format*

EXPLANATORY NOTE

The purpose of the Bill is to fulfil Ontario's obligations to transfer land in Manitoulin, Barrie and Cockburn Islands under an agreement entered into by five First Nations and Ontario.

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

(a) is in actual use as a public highway or road; and

(b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municipal

authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

(a) the road allowances closed by subsection 1 (1); and

(b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

Road
allowances
closed

Closed road
allowances
vest in
Canada

Mineral
rights

Right of way

Public
highways in
actual use

Idem

Idem

Idem

Road
allowances
vest in
municipalities

Exception

Schedule 2
land vests in
Canada

Mineral
rights in
Schedule 2
land

Water and
sewage works
easement

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, **SAVE AND EXCEPT** that portion of the said road allowance in front of Lot 11, Concession 22, and also **SAVE AND EXCEPT** that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshegwaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshegwaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshegwaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lot 20, Concessions 20 and 21 and Lot 21, Concession 20.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the line joining the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of Lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in THIRDLY, FOURTHLY and FIFTHLY above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the shore road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, SAVE AND EXCEPT that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, SAVE AND EXCEPT that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, SAVE AND EXCEPT that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660 and recorded in the Land Registry Office for the District of Manitoulin as No. 28, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell

bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession 1 in the Township of Billings.

SAVE AND EXCEPT from the road allowances described as FIRSTLY through EIGHTEENTHLY above, those parts of the said road allowances that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 12, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2

FIRSTLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,
Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,
Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, **SAVE AND EXCEPT** those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,
Lot 24, Concession 15,
Lots 20, 21, and 22, Concession 20,
Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugigansing in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the westerly production of the southern limit of the road allowance between the Townships of Billings and Carnarvon

intersects the eastern shore of Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assiginack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assiginack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little Current)
Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth
Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

All as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolmsville
Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolmsville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22, both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 1 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

All as shown on the plan of the Town Plot of Tolsmaville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.

Bill 15

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 15

*(Chapter 27
Statutes of Ontario, 1990)*

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

The Hon. C. Wildman
Minister Responsible for Native Affairs



1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 19th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act respecting Land on Manitoulin Island, Barrie Island and Cockburn Island

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subject to subsection (5), the road allowances described in Schedule 1 are stopped up and closed as highways.

(2) Subject to subsection (4), the administration, management and control and the soil and freehold of the road allowances closed by subsection (1), including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(3) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the road allowances closed by subsection (1).

(4) A right of way for all purposes in, over, along and on the land described Thirdly in Schedule 1 vests in the owners, their heirs and assigns and the occupants from time to time of the portion of Lot 14 in Concession 9 in the Township of Howland, District of Manitoulin lying west of the body of water known as Sucker Creek.

(5) Subsection (1) does not apply in respect of the road allowance of any public highway that, at the time this Act comes into force,

- (a) is in actual use as a public highway or road; and
- (b) is regularly maintained by a provincial or municipal authority.

(6) Work done as a result of a grant paid under the *Public Transportation and Highway Improvement Act* by Ontario to an Indian band does not constitute regular maintenance by a provincial authority within the meaning of subsection (5).

(7) Maintenance of a highway or road by a municipal corporation paid for by an Indian band under an agreement between the band and the municipal corporation does not constitute regular maintenance by a municipal

authority within the meaning of subsection (5).

(8) The road allowance between Concession 8 and Concession 9 across lots 11, 12, 13, 14, 15, 16 and 17 in the Township of Howland, District of Manitoulin, bounded on the west by the shore allowance along the limit of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9 to the northwestern corner of Lot 10, Concession 8, shall be deemed not to be a road allowance of a public highway in actual use within the meaning of subsection (5).

2.—(1) Subject to subsection (2), subsection 258 (1) of the *Municipal Act* applies in respect of Manitoulin Island, Barrie Island and Cockburn Island, being islands in the District of Manitoulin.

(2) Subsection 258 (1) of the *Municipal Act* does not apply in respect of,

- (a) the road allowances closed by subsection 1 (1); and
- (b) the King's Highway, any controlled-access highway, any secondary highway and any other highway that is under the jurisdiction and control of the Ministry of Transportation under the *Public Transportation and Highway Improvement Act*.

3.—(1) The administration, management and control and the soil and freehold of the land described in Schedule 2, including mines and minerals both precious and base and beds of navigable waters, vest in Her Majesty the Queen in right of Canada for the purpose of being set apart as Indian reserve land.

(2) Her Majesty the Queen in right of Ontario releases all rights under *The Indian Lands Act, 1924* in relation to mines and minerals in or under the land described in Schedule 2.

4.—(1) An easement for water and sewage works in, over, along and on the parts of Lot 1 west of Bay Street and north of Queen Street and the parts of Lot 2 west

Road
allowances
closed

Closed road
allowances
vest in
Canada

Mineral
rights

Right of way

Public
highways in
actual use

Idem

Idem

Idem

Road
allowances
vest in
municipalities

Exception

Schedule 2
land vests in
Canada

Mineral
rights in
Schedule 2
land

Water and
sewage works
easement

of Bay Street and north of Lot 1 in the Town Plot of Manitowaning in the Township of Assiginack, District of Manitoulin shown as Parts 1, 2, 3, 4 and 5 on the plan deposited in the Land Registry Office for the Registry Division of Manitoulin on the 4th day of November, 1974 as Plan 31R-343 vests in Her Majesty the Queen in right of Ontario, as represented by the Minister of the Environment.

Idem

(2) Section 13 of the *Ontario Water Resources Act* applies in relation to the easement vested by subsection (1) and for the purpose this Act shall be deemed to be an instrument of the type mentioned in subsection 13 (1) of the *Ontario Water Resources Act* that has been registered in the proper land registry office.

Schedule 3
land

5. Subject to section 4, an estate in fee simple in the land described in Schedule 3 vests in Debendmang Native Community Economic Development Association (Manitoulin), in trust.

Existing
rights
preserved

6.—(1) No right of way or other easement or other right that is registered under the *Registry Act* or *Land Titles Act* or is openly enjoyed and used or is for public utility purposes and no possessory right that is openly enjoyed and used is affected by this Act.

Idem

(2) Subsection (1) applies only in respect of rights acquired in law or equity before the day on which this Act comes into force.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is the *Manitoulin, Barrie and Cockburn Islands Land Act, 1990*.

SCHEDULE 1

FIRSTLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lot 24, Concession 19, bounded on the east by the northern production of the centre line of the road allowance between Lot 24, Concession 19, and the Sheshegwaning Indian Reserve No. 20, and bounded on the west by the eastern production of the northern limit of the road allowance between Concessions 19 and 20.

SECONDLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 25, 26 and 27, Concession 19, bounded on the east by the western production of the northern limit of the road allow-

ance between Concessions 19 and 20, and bounded on the west by the northern production of the western limit of Lot 27, Concession 19.

THIRDLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 16, 17 and 18, bounded on the north by the road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

FOURTHLY:

The western half of that part of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24 across Concessions 18 and 19, bounded on the south by the road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the road allowance along the shore of Lake Huron.

FIFTHLY:

That part of the shore road allowance along the shore of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

SIXTHLY:

That part of the road allowance between Concessions 15 and 16 in front of Lots 25, 26, 27, and 28.

SEVENTHLY:

The north half of that part of the road allowance between Concessions 15 and 16 in front of Lot 24, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

EIGHTHLY:

That part of the road allowance between Concessions 17 and 18, in front of Lots 24, 25, 26, 27, and 28, bounded on the east by the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24.

NINTHLY:

That part of the road allowance between Concessions 19 and 20, in front of Lots 24 and 25, bounded on the east by the road allowance along the shore of Lake Huron, and bounded on the west by the road allowance along the shore of Lake Huron.

SECONDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

The road allowance between Concessions 21 and 22 in front of Lots 10, 11, 12, 13, 14, and 15.

SECONDLY:

The road allowance between Concessions 21 and 22 in front of Lots 17, 18, and 19.

THIRDLY:

That part of the shore road allowance along the shore of Lake Huron abutting Concessions 20, 21, and 22, bounded on the southeast by the eastern production of the southern limit of Lot 12, Concession 20, and bounded on the southwest by the western production of the southern limit of Lot 21, Concession 20, SAVE AND EXCEPT that portion of the said road allowance in front of Lot 11, Concession 22, and also SAVE AND EXCEPT that portion of the said road allowance in front of Lots 12 and 13, Concession 22, bounded on the east by a line drawn North 45° East astronomic from the eastern corner of Part 2 as shown on a plan deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458, and bounded on the west by a line drawn North 45° West astronomic from the western corner of Part 1 as shown on said plan.

FOURTHLY:

The road allowance between Lots 15 and 16, Concessions 20 and 21, bounded on the north by the shore allowance along the shore of Lake Huron and bounded on the south by the north limit of the road allowance abutting the north boundary of the Sheshegwaning Indian Reserve No. 20.

FIFTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 13, in front of Lots 18, 19, 20, 21, 22, and 23 and that part of the road allowance between Concessions 13 and 14 in front of Lot 24, bounded on the east by the shore of Lake Huron, and bounded on the west by a line drawn north astronomic from the northeastern corner of Lot 25, Concession 13.

SIXTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, across Concessions 14 and 15, bounded on the north by the eastern production of the centre line of the road allowance between Concessions 15 and 16, and bounded on the south by the road allowance between Concessions 13 and 14.

SEVENTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 16, 17, and 18, bounded on the north by the shore road allowance along the southern shore of the lake abutting Lot 24, Concession 18, and bounded on the south by the eastern production of the centre line of the road allowance between Concessions 15 and 16.

EIGHTHLY:

That part of the shore road allowance along the shore of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line on the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 18.

NINTHLY:

The eastern half of that part of the road allowance between the Sheshegwaning Indian Reserve and Lot 24 across Concessions 18 and 19, bounded on the south by the shore road allowance along the northern shore of the lake abutting Lot 24, Concession 18, and bounded on the north by the shore road allowance along the shore of Lake Huron.

TENTHLY:

That part of the shore road allowance along the southern shore of Lake Huron, on the northern limit of the Sheshegwaning Indian Reserve, bounded on the west by the northern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve and Lot 24, Concession 19, and bounded on the east by the western production of the southern limit of Lot 21, Concession 20.

ELEVENTHLY:

That part of the road allowance between the Sheshegwaning Indian Reserve and Concession 20, in front of Lots 12 to 22, both inclusive, bounded on the west by the shore road allowance along the shore of Lake Huron and bounded on the east by the shore road allowance along the shore of Lake Huron.

TWELFTHLY:

That part of the shore road allowance along the shore of Lake Huron, on the eastern side of the Sheshegwaning Indian Reserve, bounded on the south by the eastern production of the northern limit of Lot 18, Concession 13, and bounded on the north by the eastern production of the southern limit of Lot 12, Concession 20.

THIRTEENTHLY:

That part of the bed of the lake abutting Lot 24, Concession 18, bounded on the west by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

FOURTEENTHLY:

That part of the road allowance between Lot 20, Concessions 20 and 21 and Lot 21, Concession 20.

THIRDLY

Land for the benefit of The Sucker Creek Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron in front of Lots 17, 18, 19, and 20, Concession 8, and Lots 16 and 17, Concession 9, bounded on the west by the northern production of the eastern limit of Lot 21, Concession 7, and bounded on the east by the northern production of the western limit of Lot 15, Concession 9.

SECONDLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 11, 12, 13, 14, 15, 16, and 17, bounded on the west by the shore road allowance along the shore of Lake Huron, and bounded on the east by the line joining the southwestern corner of Lot 10, Concession 9, to the northwestern corner of Lot 10, Concession 8.

THIRDLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 12, 13, 14, 15, 16, 17, and 18, bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6, and bounded on the east by the line joining the south-

eastern corner of Lot 12, Concession 7, to the north-eastern corner of Lot 12, Concession 6.

FOURTHLY:

That part of the road allowance between Lots 10 and 11, across Concession 8, bounded on the north by the road allowance between Concessions 8 and 9, and bounded on the south by the line joining the southeastern corner of Lot 11, Concession 8, to the southwestern corner of Lot 10, Concession 8.

FIFTHLY:

That part of the road allowance between Lots 15 and 16, across Concessions 7, 8 and 9, bounded on the south by the road allowance between Concessions 6 and 7, and bounded on the north by the shore road allowance along the shore of Lake Huron.

SIXTHLY:

That part of the road allowance between Lot 20, Concession 8, and Lot 21, Concession 7, bounded on the north by the shore road allowance along the shore of lake Huron, and bounded on the south by a line drawn on the western production of the southern limit of Lot 20, Concession 8.

SAVE AND EXCEPT from the lots and road allowances described in THIRDLY, FOURTHLY and FIFTHLY above, those parts of the said road allowances that have been designated as Secondary Highway No. 540 by Order-in-Council OC-1541/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14585 (Ministry of Transportation Plan P-2607-38).

FOURTHLY

Land for the benefit of The Sheguiandah Band
Township of Sheguiandah

ALL those parcels of land in the Township of Sheguiandah, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concession B, and Lot 5, Concessions 8, 9, 10, 11, 12, and 13, and Assickinack Street, bounded on the north by the shore road allowance along the shore of Bass Lake and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 5, Concession 8.

SECONDLY:

That part of the road allowance between Concessions A and B, bounded on the north by the line joining the northeastern corner of Lot 31, Concession B, to the northwestern corner of Lot 31, Concession A, and bounded on the south by the line joining the southeastern corner of Lot 22, Concession B, to the southwestern corner of Lot 22, Concession A.

THIRDLY:

That part of the road allowance between Concession A, and Lot 11, Concessions 9, 10, 11, 12, and 13, bounded on the north by a line drawn on a course of East astronomic from the northeastern corner of Lot 31, Concession A, and bounded on the south by a line drawn on a course of East astronomic from the southeastern corner of Lot 22, Concession A, SAVE AND EXCEPT that part of the said road allowance designated as part of Highway No. 6 by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the

District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

FOURTHLY:

That part of the shore road allowance along the southern shore of Bass Lake, in front of Lots 1, 2, 3, 4, and 5, Concession 13, bounded on the west by the road allowance along the line between the Townships of Sheguiandah and Bidwell, and bounded on the east by the eastern limit of Assickinack Street as shown on the Town Plot of Sheguiandah.

FIFTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 1, 2, 3, 4, and 5.

SIXTHLY:

That part of the road allowance between Concessions 10 and 11, in front of Lots 1, 2, 3, 4, and 5.

SEVENTHLY:

That part of the road allowance between Concessions 12 and 13, in front of Lots 1, 2, 3, 4, and 5.

EIGHTHLY:

Those parts of the road allowance between Lots 25 and 26, across Concessions A and B.

NINTHLY:

Anderson Street as shown on the Town Plot of Sheguiandah, bounded on the west by Assickinack Street, and bounded on the east by the western limit of the road allowance between Concession A and Lot 11, Concession 13, SAVE AND EXCEPT that part of Anderson Street transferred to the Ministry of Transportation by Order-in-Council P.C. 1958-1676 dated 17th December 1958, and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin under No. 86 (Ministry of Transportation Plan P-2460-14).

TENTHLY:

Those parts of the road allowance between Lots 30 and 31 across Concessions A and B, SAVE AND EXCEPT that part of the said road allowance designated as Highway 6, by Order-in-Council OC-2979/60 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-2207, (Ministry of Transportation Plan P-2460-17).

ELEVENTHLY:

In the Plan of the Town Plot of Sheguiandah recorded in the Canada Land Survey Records as No. T660 and recorded in the Land Registry Office for the District of Manitoulin as No. 28, the shore road allowance on Sheguiandah Bay abutting Lots 13, 14, and 15, North of Anderson Street, bounded on the north by the easterly production of the southerly limit of Dupont Street and on the east by the northerly production of the westerly limit of Robinson Street.

FIFTHLY

Land for the benefit of The Sheguiandah Band
Townships of Sheguiandah and Bidwell

ALL that parcel of land in the Townships of Sheguiandah and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance along the line between the Townships of Sheguiandah and Bidwell

bounded on the north by the southern shore of Bass Lake, and bounded on the south by a line drawn on a course of West astronomic from the southwestern corner of Lot 1, Concession 8, in the Township of Sheguiandah.

SIXTHLY

Land for the benefit of The West Bay Band
Township of Billings and Carnarvon

ALL those parcels of land in the Township of Billings, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the road allowance between Concessions 2 and 3 in front of Lots 6, 7, 8, and 9, bounded on the west by the shore road allowance along the shore of Lake Mindemoya and bounded on the east by the line joining the southwestern corner of Lot 5, Concession 3, to the northwestern corner of Lot 5, Concession 2.

SECONDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 18 bounded both on the east and on the west by the shore road allowance along the shore of Lake Mindemoya.

THIRDLY:

That part of the road allowance between Concessions 2 and 3 in front of Lot 19 bounded on the east by the shore road allowance along the shore of Lake Mindemoya and bounded on the west by the line joining the southeastern corner of Lot 20, Concession 3, to the northeastern corner of Lot 20, Concession 2.

FOURTHLY:

That part of the road allowance between Concessions 4 and 5, in front of Lots 6 to 19, both inclusive, bounded on the east by the shore road allowance along the shore of Whitefish Lake and bounded on the west by the line joining the southwestern corner of Lot 19, Concession 5, to the northwestern corner of Lot 19, Concession 4.

FIFTHLY:

That part of the road allowance between Concessions 6 and 7, in front of Lots 6 to 18, both inclusive, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 7, to the northwestern corner of Lot 5, Concession 6, and bounded on the west by the line joining the southwestern corner of Lot 18, Concession 7, to the northwestern corner of Lot 18, Concession 6.

SIXTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lot 6, bounded on the east by the line joining the southwestern corner of Lot 5, Concession 9 to the northwestern corner of Lot 5, Concession 8, and bounded on the west by the shore road allowance along the shore of Honora Bay of Lake Huron.

SEVENTHLY:

That part of the road allowance between Concessions 8 and 9 in front of Lots 10, 11, 12, 13, 14, 15, 16, and 17, bounded on the east by the shore road allowance along the shore of Honora Bay of Lake Huron, and bounded on the west by the shore road allowance along the shore of Saugigansing Lake (Mud Lake).

EIGHTHLY:

That part of the road allowance between Concessions 8 and 9, in front of Lots 18 and 19, bounded on the east by the shore road allowance along the shore of Saugigansing Lake (Mud Lake) and bounded on the west by a line joining the southwestern corner of Lot 19, Concession 9 and the northwestern corner of Lot 19, Concession 8.

NINTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 1, 2 and 3, bounded on the north by the shore road allowance along the shore of Whitefish Lake, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

TENTHLY:

Those parts of the road allowance between Lots 5 and 6, across Concessions 5, 6, 7, 8 and 9, bounded on the south by the shore road allowance along the shore of Whitefish Lake, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

ELEVENTHLY:

Those parts of the road allowance between Lots 10 and 11, across Concessions 3, 4, 5, 6, and 7, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the southern limit of the Kagawong Road. And also those parts of the said road allowance between Lots 10 and 11 across Concessions 8 and 9, bounded on the south by the eastern production of the line at the north limit of the south half of Lot 11, Concession 8, and bounded on the north by the shore road allowance along the shore of Honora Bay of Lake Huron.

TWELFTHLY:

Those parts of the road allowance between Lots 15 and 16, across Concessions 4, 5, 6, 7, 8, and 9, bounded on the south by the shore road allowance along the shore of Lake Mindemoya, and bounded on the north by the line joining the northeastern corner of Lot 16, Concession 9, to the northwestern corner of Lot 15, Concession 9.

THIRTEENTHLY:

The entire shore road allowance along the shore of Saugigansing Lake (Mud Lake).

FOURTEENTHLY:

That part of the shore road allowance along the northern, western and southern shores of Whitefish Lake, bounded on the northern side of the Lake by the southern production of the western limit of Lot 5, Concession 5, and bounded on the southern side of the Lake by the northern production of the western limit of Lot 5, Concession 3.

FIFTEENTHLY:

That part of the shore road allowance along the northeastern shore of Lake Mindemoya, bounded on the west by the southern production of the eastern limit of Lot 20, Concession 2, and bounded on the south by the southern limit of the road allowance along the line between the Townships of Billings and Carnarvon.

SIXTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the east by the northern production of the west limit of Lot 5, Concession 9, and bounded on the west by the eastern production of the northern limit of Kagawong Road.

SEVENTEENTHLY:

That part of the shore road allowance along the shore of Honora Bay of Lake Huron, bounded on the south by the eastern production of the north limit of Lot 10, Concession 8, and bounded on the north by the eastern production of the south limit of Lot 12, Concession 10.

EIGHTEENTHLY:

That part of the road allowance along the line between the Townships of Billings and Carnarvon bounded on the west by the eastern shore of Lake Mindemoya and bounded on the east by the southern production of the west limit of Lot 5, Concession 1 in the Township of Billings.

SAVE AND EXCEPT from the road allowances described as FIRSTLY through EIGHTEENTHLY above, those parts of the said road allowances that have been designated as Secondary Highway by the following:

FIRSTLY:

Secondary Highway No. 540 assumed by Order-in-Council OC 1096/56 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. 79 (Ministry of Transportation Plan A-46-4).

SECONDLY:

Secondary Highway No. 540 designated by Order-in-Council OC 2532/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-15026 (Ministry of Transportation Plan P-2458/13).

THIRDLY:

Secondary Highway No. 551 designated by Order-in-Council OC 1513/71 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as No. T-14554 (Ministry of Transportation P-7086-7) and by Order-in-Council OC-710/88 and illustrated on a plan registered in the Land Registry Office for the District of Manitoulin as Number 4539, (Ministry of Transportation Plan P-7085-25).

FOURTHLY:

Secondary Highway No. 540 as shown on a plan recorded in the Canada Lands Surveys Records in Ottawa as Number Rd 4272 and registered in the Land Registry Office for the District of Manitoulin on the 14th day of May 1965 as Number 75 (Ministry of Transportation Plan P-2458-7).

SEVENTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL those parcels of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the shore of Lake Huron, bounded on the south by the western production of the southern limit of Lot 34,

Concession 11, and bounded on the northeast by the northern production of the eastern limit of the road allowance between Lots 30 and 31, Concession 14.

SECONDLY:

Those parts of the road allowance between Lots 30 and 31, across Concessions 11, 12, 13, and 14, bounded on the south by the line joining the southwestern corner of Lot 30, Concession 11, to the southeastern corner of Lot 31, Concession 11, and bounded on the north by the shore of Lake Huron.

THIRDLY:

That part of the road allowance between Concessions 11 and 12, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southwestern corner of Lot 30, Concession 12, to the northwestern corner of Lot 30, Concession 11.

FOURTHLY:

That part of the road allowance between Concessions 13 and 14, bounded on the west by the shore of Lake Huron and bounded on the east by the line joining the southeastern corner of Lot 30, Concession 14, to the northeastern corner of Lot 30, Concession 13.

EIGHTHLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

That part of the shore road allowance along the southern and western shore of Perch Lake bounded on the north by the eastern production of the northern limit of Lot 20, Concession 1, and bounded on the east by the northern production of the eastern limit of Lot 18, Concession 1.

SECONDLY:

The road allowance between Lots 20 and 21, across Concession 1.

NINTHLY

Land for the benefit of The Sheguiandah Band
Townships of Howland and Bidwell

ALL that parcel of land in the Townships of Howland and Bidwell, in the District of Manitoulin and Province of Ontario, described as follows:

That part of the road allowance between the Townships of Howland and Bidwell bounded on the west by the southern production of the western limit of Lot 22, Concession 1, in the Township of Howland, and bounded on the east by the western limit of a Public Road running southerly from the said road allowance between townships opposite Lot 19, Concession 1, in the Township of Howland.

SCHEDULE 2

FIRSTLY

Land for the benefit of The Sheguiandah Band
Township of Howland

ALL those parcels of land in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 18, 19, 20, 21 and 22, Concession 1.

SECONDLY

Land for the benefit of The Cockburn Island Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 25, 26 and 27, Concession 19.

SECONDLY:

That part of the bed of the lake in Concession 18, bounded on the east by the southern production of the centre line of the road allowance between the Sheshegwaning Indian Reserve No. 20 and Lot 24, Concession 18.

THIRDLY

Land for the benefit of The Sheshegwaning Band
Township of Robinson

ALL those parcels of land in the Township of Robinson, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lots 12, 13, 14, 15, 16, 17, 18, and 19, Concession 20,
Lots 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19, Concession 21,
Lots 10, 14, 15, 17, 18, and 19, Concession 22.

SECONDLY:

Lots 12 and 13, Concession 22, SAVE AND EXCEPT those parts of the said lots designated as Parts 1 and 2 on a Reference Plan of Survey deposited in the Land Registry Office for the District of Manitoulin as No. 31R-1458.

THIRDLY:

Lot 24, Concession 14,
Lot 24, Concession 15,
Lots 20, 21, and 22, Concession 20,
Lot 20, Concession 21.

FOURTHLY

Land for the benefit of The West Bay Band
Townships of Billings and Carnarvon

ALL those parcels of land in the Townships of Billings and Carnarvon, in the District of Manitoulin and the Province of Ontario, described as follows:

FIRSTLY:

That part of Whitefish Lake lying west of the line joining the point where the western limit of Lot 5, Concession 3, produced northerly intersects the shore of Whitefish Lake, with the point where the western limit of Lot 5, Concession 5, produced southerly intersects the shore of Whitefish Lake.

SECONDLY:

Lake Saugigansing in front of Lots 17 and 18, Concession 8, and Lots 16, 17, and 18, in Concession 9.

THIRDLY:

That part of Lake Mindemoya lying northeasterly of the line joining the point where the westerly production of the southern limit of the road allowance between the Townships of Billings and Carnarvon

intersects the eastern shore of Lake Mindemoya, to the point where the southern production of the western limit of Lot 19, Concession 2, intersects the shore of Lake Mindemoya.

FIFTHLY

Land for the benefit of The Cockburn Island Band
Township of Cockburn Island

ALL that parcel of land in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 30, Concession 13.

SCHEDULE 3

FIRSTLY

Town Plot of Meldrum Bay
Township of Dawson

ALL those parcels of land in the Town Plot of Meldrum Bay, in the Township of Dawson, in the District of Manitoulin and Province of Ontario, described as follows:

Lot 6, West side of McDonald Avenue;

Lots 9, 10, 11 and 12, East side of Young Avenue;

Lots 9, 10, 11 and 12, West side of Young Avenue;

Lots 1 to 12, both inclusive, East side of Scott Avenue;

All as shown on the Plan of the Town Plot of Meldrum Bay recorded in the Canada Lands Surveys Records as No. T416, and recorded in the Land Registry Office for the District of Manitoulin as No. 46.

SECONDLY

Town Plot of Manitowaning
Township of Assiginack

ALL those parcels of land in the Town Plot of Manitowaning, in the Township of Assiginack, in the District of Manitoulin and Province of Ontario, described as follows:

FIRSTLY:

Lot 18, South side of Queen Street;

SECONDLY:

All of Lot 1, West side of Bay Street and North side of Queen Street, and all of Lot 2, West side of Bay Street, and North side of Queen Street;

SAVE AND EXCEPT that part of the said Lots 1 and 2 described as follows:

Commencing at the southwestern corner of the said Lot 1;

THENCE easterly along the northern limit of Queen Street 66 feet;

THENCE northerly parallel with the western limit of the said Lot 1, 132 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet;

THENCE northerly parallel with the western limit of the said Lot 2, 33 feet;

THENCE westerly parallel with the northern limit of Queen Street 33 feet more or less to the western limit of the said Lot 2;

THENCE southerly along the western limit of the said Lots 2 and 1, 165 feet more or less to the point of commencement;

The excepted lands being the same as those described as Firstly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of July 1962 as Number T-3686.

AND ALSO SAVE AND EXCEPT that part of the said Lot 2 described as follows:

Commencing at the northeastern corner of Lot 3, East side of Arthur Street and North of Queen Street;

THENCE North 68° East astronomic 188.76 feet to the eastern limit of Lot 2, being also the southwestern limit of Bay Street;

THENCE northwesterly along the said eastern limit to the northern corner of Lot 2;

THENCE southwesterly along the western limit of Lot 2, 198 feet more or less to the point of commencement;

The excepted lands being the same as those described as Secondly in an instrument registered in the Land Registry Office for the District of Manitoulin on the 14th day of November 1939 as Number 702.

All as shown on the Plan of the Town Plot of Manitowaning recorded in the Canada Lands Surveys Records as No. T329, and recorded in the Land Registry Office for the District of Manitoulin as No. 3.

THIRDLY

Town Plot of Shaftesbury (Little Current) Township of Howland

ALL those parcels of land in the Town Plot of Shaftesbury, in the Township of Howland, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 28, 29, 30, and 31, North side of Cockburn Street as shown on the Plan of the Town Plot of Shaftesbury recorded in the Canada Lands Surveys Records as No. T330, and recorded in the Land Registry Office for the District of Manitoulin as No. 2.

FOURTHLY

Town Plot of South Baymouth Township of Tehkummah

ALL those parcels of land in the Town Plot of South Baymouth, in the Township of Tehkummah, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 7 to 17, both inclusive, South side of First Street;

Lots 7 to 17, both inclusive, North side of Second Street;

Lots 8 to 17, both inclusive, South side of Second Street;

Lots 8 to 17, both inclusive, North side of Third Street;

Lots 5 to 17, both inclusive, South side of Third Street;

Lots 5 to 17, both inclusive, North side of Fourth Street;

Lots 5, 6, 7, 9, 10, 11, 12, and 13, South side of Fourth Street;

Lots 13, 14, 15, 16, and 17, North side of Fifth Street;

Lots 13, 14, 15, and 16, South side of Fifth Street;

Lots F, G, H, K, M, N, O, and P.

All as shown on the Plan of the Town Plot of South Baymouth recorded in the Canada Lands Surveys Records as No. T297, and recorded in the Land Registry Office for the District of Manitoulin as No. 45.

FIFTHLY

Town Plot of Tolsmaville Township of Cockburn Island

ALL those parcels of land in the Town Plot of Tolsmaville, in the Township of Cockburn Island, in the District of Manitoulin and Province of Ontario, described as follows:

Lots 15, 16, 17, 18, 19, 20, and 62 to 74, both inclusive, South side of Water Street;

Lots 61 to 74, both inclusive, 108, 109, and 110, North side of A Street;

Lots 61 to 74, both inclusive, South side of A Street;

Lots 1, 2, and 61 to 74, both inclusive, North side of B Street;

Lots 1, 2, 3, 4, and 61 to 74, both inclusive, South side of B Street;

Lots 2 to 10, both inclusive, 61 to 74, both inclusive, 104 and 105, North side of C Street;

Lots 2 to 10, both inclusive, and 61 to 74, both inclusive, South side of C Street;

Lots 1 to 11, both inclusive, Lots 15 to 18, both inclusive, and 61 to 74, both inclusive, North side of D Street;

Lots 1 to 16, both inclusive, and Lots 61 to 74, both inclusive, South side of D Street;

Lots 1 to 8, both inclusive, 10, 18, 21, 22, 23, 24, and 25, 61 to 74, both inclusive, and 100, 101, and 102, North side of E Street;

Lots 1 to 12, both inclusive, 18 to 29, both inclusive, and 61 to 90, both inclusive, South side of E Street;

Lots 3 to 30, both inclusive, 61 to 66, both inclusive, and 76 to 90, both inclusive, North side of F Street;

Lots 3 to 18, both inclusive, 20 to 51, both inclusive, 55 to 63, both inclusive, and 76 to 90, both inclusive, South side of F Street;

Lots 2, 3, 4, 5, and 9 to 22, both inclusive, 24, 25, 26, 29, 30, and 76 to 90, both inclusive, North side of G Street;

Lots 2 to 19, both inclusive, 21 to 27, both inclusive, and 37 to 44, both inclusive, South side of G Street;

Lots 1, 2, and 4 to 14, both inclusive, 18, 19, 25, 32, 33, 34, 35, and 36, North side of H Street;

Lots 3, 4, 5, and 8 to 13, both inclusive, 15, 32, 33, 34, 35, and 36, South side of H Street;

Lots 1 to 5, both inclusive, 8, 9, 10, 11, 13, 28, 29, 30, 31, 35, 36, 37, 40, 41, 42, 43, and 44, North side of I Street;

Lots 1, 3, 12, 14, 15, 16, 17, 18, and 19, South side of I Street;

Lots 16, 17, 18, and 19, North side of J Street;

Lots 11, 12, 13, and 14, South side of J Street;

Lots 26 and 27, North side of L Street;

All as shown on the plan of the Town Plot of Tolmaville recorded in the Canada Lands Surveys Records as No. T469, and recorded in the Land Registry Office for the District of Manitoulin as No. 8.

Bill 16

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill would make numerous changes to the municipal election procedure in respect of voting accessibility, accountability in campaign financing and administrative efficiency. Many of the changes are minor or technical in nature. The major substantive changes are as follows:

1. The proxy voting process would be changed to permit the clerk to require that a person exercising a proxy provide proof of his or her identification. It would be clarified that an elector may act as a voting proxy for either a relative or a non-relative, but not both.
2. Municipalities would be given the authority to pass a by-law providing for alternative forms of ballots for the benefit of visually impaired electors.
3. Municipalities would be permitted to provide election related information in languages other than English.
4. The clerk would be given the power to requisition municipal facilities, school board facilities, provincially funded institutions and buildings with 100 or more dwelling units for use as polling places as needed.
5. Candidates not complying with the financial reporting and disclosure requirements would be ineligible to be elected to any municipal or related office. The clerk would give notice of the disqualification to both the elected and non-elected candidates.
6. The threshold for which a registered candidate may file a statutory declaration rather than a complete financial statement has been increased from \$1,000 to \$2,000.
7. Campaign surpluses are to be held in trust for each candidate until the next municipal election. Any surplus would be applied against the debts incurred in the immediate past election of the candidate or become the starting balance of the upcoming campaign, or both. If the candidate does not seek office in the next municipal election, the surplus will be transferred to the relevant municipality, school board or local board.
8. A limit of \$5,000 would be established as the maximum aggregate amount the individual, trade union, or corporation may contribute to a campaign. This

limit would apply separately to each jurisdiction in which representatives are directly elected.

9. The costs for tax credits or rebates in respect of jointly elected offices would be apportioned equally between the upper and lower tier municipalities participating in the system.
10. A new procedure is set up for requiring a compliance audit upon the complaint of an elector. The procedures are set out in the proposed sections 134a to 134c of the Act.
11. The revision period for the preliminary list of electors is reduced from forty-two to thirty-nine days.
12. The clerk would be authorized to remove the names of deceased persons from the preliminary list of electors without the need for a hearing.
13. The maximum number of electors in polling subdivisions would be increased from 350 to 1,000 electors.
14. The clerk would be authorized to require proof of identification from those persons wishing to add their names to the polling list.
15. A recount would be automatic if the vote differential between an elected and non-elected candidate is less than the greater of (a) 10 votes; and (b) the lesser of one-half of a vote for each polling subdivision and .25 per cent of the total number of votes cast for the office.
16. The sale or use of voters' lists for commercial purposes would be prohibited.
17. Nomination day is changed to the Friday which is thirty-one days before polling day.
18. The definition of "residence" is expanded to include homeless persons. As a result homeless persons will be eligible to vote. The residence of a homeless person is based on the places that person sleeps and eats.
19. Provision is made for the preparation of a supplementary enumeration list of residents of on-campus residences and psychiatric hospitals. The normal enumeration process occurs too early to deal with the rapid turnover of residents in these institutions.

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the *Election Finances Act*, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, “residence” and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person’s family resides is that person’s residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

3. Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling

day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 1,000 electors or extend beyond the boundaries of one ward.

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

(a) who is a registered candidate, as defined in section 121 or 138; and

Returning officer for school board

Returning officer, Hamilton-Wentworth

Expenses of by-election of local board

Payment

Ineligibility to vote

Size

Proviso

Extracts of list

When request to be made

Mandatory request

Copy to school board

Copy to registered candidate

- (b) who is registered to run in an election for the office of a member of a school board.

Status of lists

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

Payment for producing extracts

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

13. The Act is amended by adding the following section:

Supplementary enumeration list

22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

Contents

(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

Format

(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Name on supplementary list

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.

Correction of list

(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

Limitation

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

Revision of list

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25, and at such other places

and times as the clerk or secretary may determine.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

Mailing of notice of electoral status

- (a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

- (b) an application for revision of the list in the form prescribed.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

- (b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

Posting of list

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision period

(2) **Clauses 25 (5) (b), (d) and (f) of the Act are repealed.**

(3) **Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:**

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situated makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon request

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors containing the names of the electors who are entitled to vote in the election for the office

Registered candidate entitled to copies

for which that registered candidate is registered.

Format of
list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where
application
filed by
agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out “may” in the fifth line and substituting “shall”.

18.—(1) Subsection 28 (5) of the Act is amended by striking out “shall” in the second line and substituting “may”.

(2) Subsection 28 (7) of the Act is amended by striking out “registered” in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special
deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution
of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

Who may be
nominated

(a) is qualified to hold that office under an Act constituting the office; and

(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday; the thirty-first day before polling day.

Nomination
day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

Period for
nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after “person” in the first line “who is qualified under section 34”.

(2) Clause 36 (1) (c) of the Act is amended by striking out “or a separate school elector, as the fact is” at the end and substituting “a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be”.

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school

Determina-
tion as to
type of
elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

Posting

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

Definition

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if”.

(4) Subsection 37 (5) of the Act is amended by striking out “day following nomination day” in the first and second lines and substituting “first day following nomination day that is not a Saturday or a holiday”.

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

List of candidates

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

Completion of list

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

Withdrawal

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

Where nominated for more than one office

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

Acclamation

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

Idem

(3) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

Quorum

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Voting by ballot

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1). Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act. Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act. Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3). Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after “arranged” in the third line “and, if the candidates have identical surnames, in order of their given names alphabetically arranged”.

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

(ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional
polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space
provided
without
charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end "or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors".

31. Subsection 47 (1) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special
polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

Ballot box

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

Determi-
nation
of status

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

Closing of
polling place

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

Inspection,
sealing of
ballot box

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

Identification

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

List of persons voting

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for, Limitation

(a) one person who is not a relative; or

(b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy. Definition

(2) Subsection 67 (5) of the Act is amended by striking out “may apply to the clerk” in the first and second lines and substituting “shall appear before the clerk in person during normal office hours and complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy”.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate. Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

Where part of votes rejected

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

Recount officer

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

Substitution for clerk

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

Idem

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

Disqualification

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

Limitation

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote is close

(a) if a candidate who was not declared elected requests it in writing; and

(b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by inserting after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substitut-

ing "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as reenacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, sec-

tion 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

(7) Upon completion of the recount, the judge shall make an order providing for

Application
for recount

Service

Procedures

Documents
to be
provided by
recount
officer

Determi-
nation
by judge

Disputed
ballots

Order

Duties of
recount
officer after
recount

Certification

Tied vote

After certifi-
cation

those matters described in subsection (5) and shall,

- (a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;
- (b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;
- (c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
- (d) give the envelope referred to in clause (b) to the recount officer; and
- (e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

Certified
copy of order

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

Tied vote

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

Results
declared or
certified by
returning
officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Appeal

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

Nature of
appeal

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

Service

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,

- (a) a certified copy of the order of the judge under section 88c;
- (b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and
- (c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

- (a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and
- (b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

- (a) announce the result of the recount to the persons present at the recount;
- (b) seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of

Procedures

Documents
to be
provided by
recount
officer

Determina-
tion

Order

Certified
copy of order

Tied vote

Declaration
or certifi-
cation by
returning
officer

the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;
- (d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;
- (e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or
- (f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after “mail” in the second line “or personal service”.

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration

Prohibition respecting use of lists

Prohibition respecting sale of lists

New election

Costs of recount

Frivolous proceedings

Discretion of court not restricted

Records to be returned

Right to sit

Retention of ballots

list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

Neglect of duties

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

Ineligibility

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

Penalties for corrupt practice

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

Election information in languages other than English

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

65.—(1) The definition of "campaign expense" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "the closing of the poll".

(2) The definitions of "campaign period", "contribution" and "municipality" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing the day on which,
 - (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

Associated corporations

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is repealed and the following substituted:

Registration
of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding "or" at the end of clause (d) and by adding the following clause:

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) The clerk shall keep a register of all notices of registration filed under this section.

Register

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Change of
office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration.

Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;
- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

Where no
chief
financial
officer
appointed

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of

Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Contributions

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

Restriction

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Change of office

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(3) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(5)" in the second line "or (5a)".

(4) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on contributions

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(5) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(6) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

Receipts

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

Group contributions

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

Record of contributions

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, "fund-raising function" means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

Definition

(2) A fund-raising function shall only be held for a person who is registered under this Part.

When fund-raising function to be held

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Charges as contribution

71. The Act is further amended by adding the following section:

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

Restrictions respecting advertising

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by add-

ing at the end "entitled to vote for the head of council".

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end "entitled to vote for that office".

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "an area municipality" in the third line and substituting "one or more area municipalities".

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or" in the second line and substituting "and".

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

Release of funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

Idem

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

Interest

(5) In any election, a surplus is the amount by which the total of,

Surplus

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

Deficit

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Restriction

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

Disposal of surplus

Where statutory declaration sufficient

Surplus

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

Idem

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Ineligibility respecting future elections

- 133.**—(1) If a registered candidate,
- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or
 - (b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Service

(3) A notice served by registered mail under subsection (2) shall be deemed to be received on the fifth day after the day of mailing.

Effective date

(4) The penalties and disabilities under subsections (1) and (2) take effect,

- (a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or

- (b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

Application to judge

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

Consequence of order

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

Offence

- (a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or
- (b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the penalties and disabilities under subsection (1).

Relief

133b.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.

Ineligibility

Office
declared
vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties
unaffected by
vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit
requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration
of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Resolution
required

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

Appeal to
Commission

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Compliance
audit

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Idem

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

Report of
auditor

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

Powers of
auditor

(4) For the purpose of performing a compliance audit under this Part, the auditor,

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and
- (b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

Costs

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the reg-

istered candidate who was the subject of the compliance audit was registered to run for office.

Frivolous
applications

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

Immunity
respecting
audit

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

Legal
proceedings

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

Commission
to be notified

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

Legal
proceedings

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

Powers and
duties

134d.—(1) Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

Legal
proceedings

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing on the day on which,
 - (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual’s employer, compensation in excess of what the individual would normally receive during the period the service was performed;

“municipality” means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated
corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

By-laws to
be sent to
Commission
and clerk

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

O.M.B.
approval not
required

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Application
for
registration

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an application for registration in the form prescribed by the Commission.

Application,
new elections

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;

(d) an order to hold a new election is given by the Minister under the *Municipal Act*; or

(e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by prepaid registered mail to the Commission immediately upon their receipt.

Documents
to
Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contri-
butions to
unregistered
candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or

Timing

notice under subsection (8) was filed with the clerk, as the case may be.

Expiry of
campaign
period

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal; and
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

Notice of
alteration

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

Change of
office

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Onus

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 143 (4)" in the first and second lines and substituting "section 143".

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "Commission" in the second line and substituting "clerk".

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Replacement

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;

(ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

Contributions

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Where
change of
office

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

Limitation on
contributions

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Political
advertisements

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Definition

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

When fund-
raising
function to
be held

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Charges as
contributions

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Group contri-
butions

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Record of
contributions

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(iii) all contributions in the form of goods or services and the values of them received by or on behalf of the registered candidate during the campaign period, and

(iv) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

Surplus

(3a) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Deficit

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

Interest

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

Office declared vacant

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

Penalties unaffected by vacancy

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Recovery of tax credit

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

Idem

(a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and

(b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to

any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

Disqualifi-
cation

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

Definitions

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991. Commence-
ment

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*. Short title

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B-16

Bill 16

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	
Royal Assent	

*(Reprinted as amended by the Committee of the Whole House)
This Bill has been reprinted to conform to the new printing format*

EXPLANATORY NOTES

The Bill would make numerous changes to the municipal election procedure in respect of voting accessibility, accountability in campaign financing and administrative efficiency. Many of the changes are minor or technical in nature. The major substantive changes are as follows:

1. The proxy voting process would be changed to permit the clerk to require that a person exercising a proxy provide proof of his or her identification. It would be clarified that an elector may act as a voting proxy for either a relative or a non-relative, but not both.
2. Municipalities would be given the authority to pass a by-law providing for alternative forms of ballots for the benefit of visually impaired electors.
3. Municipalities would be permitted to provide election related information in languages other than English.
4. The clerk would be given the power to requisition municipal facilities, school board facilities, provincially funded institutions and buildings with 100 or more dwelling units for use as polling places as needed.
5. Candidates not complying with the financial reporting and disclosure requirements would be ineligible to be elected to any municipal or related office. The clerk would give notice of the disqualification to both the elected and non-elected candidates.
6. The threshold for which a registered candidate may file a statutory declaration rather than a complete financial statement has been increased from \$1,000 to \$2,000.
7. Campaign surpluses are to be held in trust for each candidate until the next municipal election. Any surplus would be applied against the debts incurred in the immediate past election of the candidate or become the starting balance of the upcoming campaign, or both. If the candidate does not seek office in the next municipal election, the surplus will be transferred to the relevant municipality, school board or local board.
8. A limit of \$5,000 would be established as the maximum aggregate amount the individual, trade union, or corporation may contribute to a campaign. This limit would apply separately to each jurisdiction in which representatives are directly elected.
9. The costs for tax credits or rebates in respect of jointly elected offices would be apportioned equally between the upper and lower tier municipalities participating in the system.
10. A new procedure is set up for requiring a compliance audit upon the complaint of an elector. The procedures are set out in the proposed sections 134a to 134c of the Act.
11. The revision period for the preliminary list of electors is reduced from forty-two to thirty-nine days.
12. The clerk would be authorized to remove the names of deceased persons from the preliminary list of electors without the need for a hearing.
13. The maximum number of electors in polling subdivisions would be increased from 350 to 500 electors.
14. The clerk would be authorized to require proof of identification from those persons wishing to add their names to the polling list.
15. A recount would be automatic if the vote differential between an elected and non-elected candidate is less than the greater of (a) 10 votes; and (b) the lesser of one-half of a vote for each polling subdivision and .25 per cent of the total number of votes cast for the office.
16. The sale or use of voters' lists for commercial purposes would be prohibited.
17. Nomination day is changed to the Friday which is thirty-one days before polling day.
18. The definition of "residence" is expanded to include homeless persons. As a result homeless persons will be eligible to vote. The residence of a homeless person is based on the places that person sleeps and eats.
19. Provision is made for the preparation of a supplementary enumeration list of residents of on-campus residences and psychiatric hospitals. The normal enumeration process occurs too early to deal with the rapid turnover of residents in these institutions.

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the *Election Finances Act*, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, “residence” and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person’s family resides is that person’s residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

3.—(1) Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Subclause 2 (a) (iv) of the Act is amended by adding at the beginning “trustee, commissioner or other”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 500 electors or extend beyond the boundaries of one ward.

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

Ineligibility to vote

Size

Proviso

Extracts of list

When request to be made

Mandatory request

Copy to school board

Copy to registered candidate

Returning officer for school board

Returning officer, Hamilton-Wentworth

Expenses of by-election of local board

Payment

	<p>(a) who is a registered candidate, as defined in section 121 or 138; and</p> <p>(b) who is registered to run in an election for the office of a member of a school board.</p>	mal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.	
Status of lists	(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.	(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,	Mailing of notice of electoral status
Payment for producing extracts	(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).	(a) a notice in the form prescribed by the Minister of Revenue under the <i>Assessment Act</i> , stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and	
	13. The Act is amended by adding the following section:	(b) an application for revision of the list in the form prescribed.	
Supplementary enumeration list	22a. —(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.	15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:	
Contents	(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.	(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).	
Format	(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.	16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:	
Name on supplementary list	(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.	(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.	Posting of list
Correction of list	(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.	(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.	Revision period
		(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.	
		(3) Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:	
Limitation	(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.	(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.	Copies upon request
	14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:	(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors	Registered candidate entitled to copies
Revision of list	(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during nor-		

containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

Format of list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where application filed by agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out “may” in the fifth line and substituting “shall”.

18.—(1) Subsection 28 (5) of the Act is amended by striking out “shall” in the second line and substituting “may”.

(2) Subsection 28 (7) of the Act is amended by striking out “registered” in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate.

Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she,

Who may be nominated

(a) is qualified to hold that office under an Act constituting the office; and

(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day.

Nomination day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day.

Period for nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after “person” in the first line “who is qualified under section 34”.

(2) Clause 36 (1) (c) of the Act is amended by striking out “or a separate school elector, as the fact is” at the end and substituting “a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be”.

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school

Determination as to type of elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if”.

(4) Subsection 37 (5) of the Act is amended by striking out “day following nomination day” in the first and second lines and substituting “first day following nomination day that is not a Saturday or a holiday”.

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

(3) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Posting

Definition

List of candidates

Completion of list

Withdrawal

Where nominated for more than one office

Acclamation

Idem

Quorum

Voting by ballot

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1). Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act. Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act. Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3). Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after “arranged” in the third line “and, if the candidates have identical surnames, in order of their given names alphabetically arranged”.

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

- (ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional
polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space
provided
without
charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end "or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors".

31. Subsection 47 (1) of the Act, as enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special
polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

Ballot box

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

Determi-
nation
of status

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

Closing of
polling place

35. Subsection 53 (2) of the Act is amended by adding at the end "if the inspection does not impede the opening of the poll on time".

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

Inspection,
sealing of
ballot box

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

Identification

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

Advance poll

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

List of persons voting

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for,

Limitation

- (a) one person who is not a relative; or
- (b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

Definition

(2) Subsection 67 (5) of the Act is repealed and the following substituted:

(5) A person who has been appointed a voting proxy shall complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy, and shall appear before the clerk in person for this purpose at the clerk's office,

Application for proxy certificate

- (a) during normal office hours; or
- (b) during the period from 12 noon to 5 p.m. on the Saturday of the advance poll held under section 66.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.

Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

Where part
of votes
rejected

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

Recount
officer

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

Substitution
for clerk

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

Idem

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

Disqualifi-
cation

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

Limitation

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking

out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote
is close

- (a) if a candidate who was not declared elected requests it in writing; and
- (b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,

(i) ten votes, and

(ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by insert-

ing after “give” in the first line “by personal service or registered mail”.

(2) Subsection 88 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “have present a scrutineer appointed for that purpose” in the fourth line and substituting “appoint and have present one scrutineer for each recount station established by the recount officer”.

(3) Subsection 88 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “Subsections 4 (8) and (10)” in the first line and substituting “Subsection 4 (8)”.

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning “Subject to sections 88c and 88d”.

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify

to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

Duties of
recount
officer after
recount

Certification

Tied vote

After certi-
fication

Application
for recount

Service

Procedures

Documents
to be
provided by
recount
officer

Determi-
nation
by judge

lot to the returning officer together with the order under subsection (8).

Declaration
or certifi-
cation by
returning
officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Costs of
recount

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

Frivolous
proceedings

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

Discretion of
court not
restricted

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

Records to
be returned

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

Right to sit

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

Retention of
ballots

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

Prohibition
respecting
use of lists

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

Prohibition
respecting
sale of lists

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

New election

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;

(d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;

(e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

(f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after "mail" in the second line "or personal service".

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related

information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

65.—(1) The definition of "campaign expense" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "polling day" at the end of clause (d) and substituting "the closing of the poll".

(2) The definitions of "campaign period", "contribution" and "municipality" in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

"campaign period" means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing the day on which,
 - (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

"contribution" means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

Neglect of
duties

Ineligibility

Penalties for
corrupt
practice

Election
information
in languages
other than
English

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Registration of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding "or" at the end of clause (d) and by adding the following clause:

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) The clerk shall keep a register of all notices of registration filed under this section. Register

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be. Change of office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration. Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;
- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Where no chief financial officer appointed

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

Contributions

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

Restriction

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 122 (5)" at the end and substituting "section 122".

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Change of office

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(4) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(5)" in the second line "or (5a)".

(5) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on contributions

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

(a) to any registered candidate which in total exceeds \$750 in value; or

(b) to any number of registered candidates registered for office on the same council, school board or local board, as the

case may be, which in total exceeds \$5,000 in value.

(6) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "section" in the fourth line and substituting "Part".

(7) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

Receipts

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

Group contributions

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

Record of contributions

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, "fund-raising function" means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

Definition

(2) A fund-raising function shall only be held for a person who is registered under this Part.

When fund-raising function to be held

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Charges as contribution

71. The Act is further amended by adding the following section:

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” in the second line and substituting “and”.

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

(5) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and

- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and

- (d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on

Restrictions
respecting
advertising

Where
statutory
declaration
sufficient

Surplus

Release of
funds

Idem

Interest

Surplus

Deficit

Restriction

the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Disposal of
surplus

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

Idem

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Ineligibility
respecting
future
elections

133.—(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or
- (b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

Forfeiture of
office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

Service

(3) A notice served by registered mail under subsection (2) shall be deemed to be

received on the fifth day after the day of mailing.

(4) The penalties and disabilities under subsections (1) and (2) take effect, Effective date

- (a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or
- (b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith. Application to judge

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2). Consequence of order

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who, Offence

- (a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or
- (b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the penalties and disabilities under subsection (1). Relief

133b.—(1) If the financial statement, report or statutory declaration of a regis- Ineligibility

tered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.

Office
declared
vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties
unaffected by
vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit
requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration
of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Resolution
required

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Appeal to
Commission

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Compliance
audit

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

Idem

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

Report of
auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the auditor,

Powers of
auditor

- (a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school

board or local board relevant to the compliance audit; and

- (b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

Costs

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the registered candidate who was the subject of the compliance audit was registered to run for office.

Frivolous applications

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

Immunity respecting audit

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

Legal proceeding

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

Commission to be notified

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

Legal proceedings

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

Powers and duties

134d.—(1) Except as otherwise provided in this Part, the provisions of the

Election Finances Act, 1986 relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

Legal proceedings

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing on the day on which,
 - (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement

with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

By-laws to be sent to Commission and clerk

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

O.M.B. approval not required

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Application for registration

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an application for registration in the form prescribed by the Commission.

Application, new elections

(2) In the case of a new election, the application for registration referred to in sub-

section (1) shall be filed with the clerk no earlier than the day on which,

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*; or
- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by prepaid registered mail to the Commission immediately upon their receipt.

Documents to Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contributions to unregistered candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by

or on behalf of the registered candidate for the deposit of any contributions; and

- (h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

Timing

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or notice under subsection (8) was filed with the clerk, as the case may be.

Expiry of campaign period

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal; and
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

Notice of alteration

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

Change of office

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Onus

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "subsection 143 (4)" in the first and second lines and substituting "section 143".

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "Commission" in the second line and substituting "clerk".

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is repealed and the following substituted:

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

Replacement

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;
- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

Contributions

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Where change of office

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "(1)" in the second line "or (1a)".

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

Limitation on contributions

- (a) to any registered candidate which in total exceeds \$750 in value; or
- (b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is repealed and the following substituted:

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (iii) all contributions in the form of goods or services and the values of them received by or on behalf of the registered candidate during the campaign period, and
- (iv) the name, address and contribution of each individual, corporation or trade union that made

Group contributions

Record of contributions

Political advertisements

Definition

When fund-raising function to be held

Charges as contributions

one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

Surplus

(3a) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Deficit

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

Interest

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or (b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for

which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

Ineligibility

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

Office declared vacant

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

Penalties unaffected by vacancy

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Recovery of tax credit

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of

Idem

an area municipality, the clerk shall recover from the regional municipality,

- (a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and
- (b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

Guidelines

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

Disqualifi-
cation

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

Definitions

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991.

Commence-
ment

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*.

Short title

Bill 16

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 16

*(Chapter 28
Statutes of Ontario, 1990)*

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading	December 5th, 1990
2nd Reading	December 12th, 1990
3rd Reading	December 19th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act to amend the Municipal Elections Act and certain other Acts related to Municipal Elections

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraph:

6a. “Commission” means the Commission on Election Finances established by the *Election Finances Act*, 1986.

(2) Paragraph 18 of section 1 of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 1, is amended by striking out “and Housing” in the first and second lines.

(3) Section 1 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 1, 1986, chapter 64, section 40, 1988, chapter 20, section 1 and 1988, chapter 47, section 82, is further amended by adding the following paragraphs:

21a. “normal office hours” means those days and hours that an office is open to the public;

32a. “regional municipality” means a regional, metropolitan and district municipality and the County of Oxford.

(4) Paragraph 34 of section 1 is repealed.

2. Part I of the Act is amended by adding the following section:

1a.—(1) In this Act, “residence” and similar expressions used in relation to a person means the true, fixed, permanent home or lodging place to which whenever the person is absent he or she has the intention of returning, subject to the following rules:

1. The place where a person’s family resides is that person’s residence

unless he or she takes up or continues his or her residence at some other place with the intention of remaining there, in which case he or she shall be deemed to be a resident of such other place.

2. The place where a person occupies a room or part of a room or part of a room as a regular lodger or to which he or she habitually returns not having any other permanent lodging place shall be deemed to be his or her residence.

(2) Despite subsection (1), if a person does not have a residence described in subsection (1), the residence of that person means the place to which the person most frequently returns to sleep, or the place to which the person most frequently returns to eat, whichever is more frequented by that person or if frequented equally, the place in which the person sleeps, subject to the following rules:

1. Multiple returns to the same place during a single day whether to eat or to sleep shall be considered one return.

2. In determining whether a person should be enumerated as a resident or added to the preliminary list of electors under section 26, regard shall be had to the places the person has slept and ate over the immediately preceding five-week period.

3. In determining whether a person should be issued a certificate to vote under section 33 or the name of a person should be entered on the polling list under section 56, regard shall be had to the places the person slept and ate during the qualification period under section 12.

4. In the absence of evidence to the contrary, an affidavit of a person regarding the places the person slept or ate during any time period is conclusive.

3.—(1) Subclause 2 (a) (ii) of the Act is amended by striking out “of an area municipality” at the end and substituting “of one or more area municipalities”.

(2) Subclause 2 (a) (iv) of the Act is amended by adding at the beginning “trustee, commissioner or other”.

4.—(1) Subsection 3 (1) of the Act is amended by striking out “Subject to subsections (2) and (3)” at the beginning and substituting “Except as otherwise provided in this section”.

(2) Subsection 3 (3) of the Act is repealed and the following substituted:

(3) The clerks specified in the regulations under the *Education Act* shall be the returning officers for the election of the members of a school board.

(3) Section 3 of the Act is amended by adding the following subsection:

(4) The clerk of the area municipality with the greatest number of electors shall be the returning officer for the election to the office of chairman of the council of The Regional Municipality of Hamilton-Wentworth.

5.—(1) Subsection 4 (1) of the Act is amended by inserting after “candidate” in the sixth line “or spouse of a candidate”.

(2) Subsection 4 (5) of the Act is amended by inserting after “candidate” in the fifth line “or spouse of a candidate”.

6. Subsection 6 (3) of the Act is amended by striking out “if requested to do so” in the first and second lines.

7. Subsection 8 (3) of the Act is repealed and the following substituted:

(3) If the clerk of a municipality is required to conduct an election of a member or members of a local board other than at a regular election, the local board shall reimburse the treasurer of the municipality for the reasonable expenses incurred by the clerk in conducting the election.

(4) The local board shall pay the expenses under subsection (3) as soon as practicable after receiving a certificate verifying the amount of the expenses signed by the clerk of the municipality.

8. Subsection 12 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 3 and 1988, chapter 20, section 2, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

9. Subsection 13 (1) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 4 and 1988, chapter 20, section 3, is further amended by striking out “Monday in October that precedes polling day by twenty-eight” in the amendment of 1988 and substituting “Friday in October that precedes polling day by thirty-one”.

10. Section 14a of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 1, is repealed and the following substituted:

14a. No corporation, executor, trustee or, except as otherwise provided in this Act, any person acting in a representative capacity is eligible to vote in any election.

11. Section 18 of the Act is repealed and the following substituted:

18. A polling subdivision shall not contain more than 500 electors or extend beyond the boundaries of one ward.

12.—(1) Section 22 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by adding the following subsection:

(1a) Nothing in this or any other Act requires the assessment commissioner to enumerate a person whose residence is described under subsection 1a (2).

(2) Subsection 22 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 9, is amended by inserting after “list” in the second line “under subsection (1) or an extract of the enumeration list under subsection (3)”.

(3) Section 22 is further amended by adding the following subsections:

(3) At the written request of a clerk who is to act as returning officer for the election of the members of a school board, the assessment commissioner shall provide the clerk with extracts of the enumeration list based on the school support of electors in that election.

(4) A request under subsection (3) shall be made no later than the 1st day of July in an election year.

(5) The clerk shall make a request under subsection (3) if the school board by resolution directs the clerk to do so.

(6) If a school board has issued a direction under subsection (5), the clerk shall provide a copy of the extracts of the enumeration list to the secretary of the school board.

(7) A clerk who has received the extracts of the enumeration list under subsection (3) shall, upon request, provide a copy of the extracts to any person,

Returning officer for school board

Returning officer, Hamilton-Wentworth

Expenses of by-election of local board

Payment

Ineligibility to vote

Size

Proviso

Extracts of list

When request to be made

Mandatory request

Copy to school board

Copy to registered candidate

- (a) who is a registered candidate, as defined in section 121 or 138; and
- (b) who is registered to run in an election for the office of a member of a school board.

Status of lists

(8) Extracts of the enumeration list are not official enumeration lists and are not subject to revision.

Payment for producing extracts

(9) The reasonable expenses incurred by the assessment commissioner for producing the extracts of the enumeration list shall be paid by the treasurer of the municipality, the clerk of which made the request under subsection (3).

13. The Act is amended by adding the following section:

Supplementary enumeration list

22a.—(1) The assessment commissioner may, before the 30th day of September in an election year, prepare and deliver a supplementary enumeration list to the clerk.

Contents

(2) The supplementary enumeration list shall be restricted to residents of on-campus residences of post-secondary educational institutions and to residents of a psychiatric hospital.

Format

(3) At the written request of the clerk, the assessment commissioner may deliver the supplementary enumeration list in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

Name on supplementary list

(4) A name on the supplementary enumeration list shall be deemed to be an application to include the name on the preliminary list filed with the clerk under section 27, and, in the absence of evidence to the contrary, the clerk shall treat it as a successful application and add the name to the preliminary list.

Correction of list

(5) Where it is apparent to the clerk that the list or part thereof delivered to the clerk under subsection (1) is not in conformity with the requirements for the polling subdivisions or that the list contains gross or manifest errors, the clerk, may, before amending the preliminary list of electors under subsection (4), correct the list or part thereof and shall immediately notify the assessment commissioner of the corrections.

Limitation

(6) Sections 23, 24 and 25 do not apply to a supplementary enumeration list under this section.

14. Subsections 23 (2) and (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 10, are repealed and the following substituted:

Revision of list

(2) The list, as corrected under subsection (1), shall be revised in the office of the clerk or secretary, as the case may be, during nor-

mal office hours during the revision period under section 25, and at such other places and times as the clerk or secretary may determine.

(3) On or before the 31st day of August in an election year, the assessment commissioner shall mail to each elector on the preliminary list, at the address shown in the list,

Mailing of notice of electoral status

(a) a notice in the form prescribed by the Minister of Revenue under the *Assessment Act*, stating the electoral status of the person, and stating that revisions to the list may be made in the office of the clerk or secretary, as the case may be, during normal office hours during the revision period under section 25; and

(b) an application for revision of the list in the form prescribed.

15. Section 24 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 11, is further amended by adding the following clause:

(b) where the clerk or secretary considers it appropriate, establish places at which and the times when revision of the list will be undertaken in addition to those described in subsection 23 (2).

16.—(1) Subsections 25 (2) and (3) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 12, are repealed and the following substituted:

(2) On or before the first day of the revision period under subsection (3), copies of the preliminary list shall be posted and notice given under section 24.

Posting of list

(3) The period for revision of the preliminary list of electors commences on the Tuesday following the first Monday in September in an election year and ends at 5 p.m. on the Friday in October that precedes polling day by thirty-one days.

Revision period

(2) Clauses 25 (5) (b), (d) and (f) of the Act are repealed.

(3) Subsection 25 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 2, is repealed and the following substituted:

(6) If the member of the House of Commons or the member of the Assembly representing the electoral district in which the municipality or any part thereof is situate makes a written request for the preliminary list, the clerk shall deliver or mail one copy of the list to that person.

Copies upon request

(7) Every registered candidate, as defined in section 121 or 138, is entitled to be provided by the clerk with two printed copies of that portion of the preliminary list of electors

Registered candidate entitled to copies

containing the names of the electors who are entitled to vote in the election for the office for which that registered candidate is registered.

Format of list

(8) At the written request of a registered candidate, the clerk may furnish the preliminary list of electors under subsection (7) in a format that will facilitate the use of mechanical or electronic means in the printing or reproduction of the list.

17.—(1) Subsection 27 (3) of the Act is repealed and the following substituted:

Filing

(3) An application made under this section and duly signed by the applicant may be filed by the applicant in person or by mail or by his or her agent in person.

(2) Section 27 of the Act is amended by adding the following subsection:

Where application filed by agent

(3a) An application filed by the agent of the applicant shall be signed by both the applicant and the agent and, upon the request of the clerk, the agent shall provide proof satisfactory to the clerk of the identity of the agent.

(3) Subsection 27 (4) of the Act is amended by striking out “may” in the fifth line and substituting “shall”.

18.—(1) Subsection 28 (5) of the Act is amended by striking out “shall” in the second line and substituting “may”.

(2) Subsection 28 (7) of the Act is amended by striking out “registered” in the third line.

(3) Section 28 of the Act is amended by adding the following subsections:

Special deletions

(8) Subsections (2) to (7) do not apply to applications under subsection (1) to delete from the list a person's own name or the name of a deceased person.

Deletions

(9) If the clerk receives an application to delete from the list a name of a person described in subsection (8) and the clerk is satisfied of the validity of the application, the clerk may delete the name.

19. Subsection 30 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 13, is repealed and the following substituted:

Distribution of statement

(3) The clerk shall, within ten days after nomination day, send a certified copy of the statement to each person who was provided with a copy of the preliminary list under subsection 25 (5) or (6) and shall provide two certified copies of the statement to every candidate for office.

20. Section 33 of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 7, is further amended by adding the following subsection:

(2a) For the purpose of establishing the identity of a person under subsection (1) or (2), the clerk may require the person to provide personal identification satisfactory to the clerk and, in the absence of that identification, the clerk may refuse to issue a certificate. Identification

21. Section 34 of the Act is repealed and the following substituted:

34. Any person, who is not ineligible under this or any other Act or otherwise prohibited by law to be nominated for or to hold an office, may be nominated as a candidate for that office if he or she, Who may be nominated

(a) is qualified to hold that office under an Act constituting the office; and

(b) is registered for that office under section 122 or 143 of this Act.

22.—(1) Subsection 35 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 14, is repealed and the following substituted:

(1) Nomination day for a regular election shall be Friday, the thirty-first day before polling day. Nomination day

(2) Subsection 35 (2) of the Act is repealed and the following substituted:

(2) Persons may be nominated as candidates in an election between 9 a.m. and 5 p.m. on nomination day, but nothing in this section prevents a person from filing a nomination paper with the clerk during normal office hours during the period from Tuesday to Thursday inclusive immediately preceding nomination day. Period for nomination

23.—(1) Subsection 36 (1) of the Act is amended by inserting after “person” in the first line “who is qualified under section 34”.

(2) Clause 36 (1) (c) of the Act is amended by striking out “or a separate school elector, as the fact is” at the end and substituting “a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector, as the case may be”.

(3) Subsections 36 (3) and (4) of the Act are repealed.

(4) Subsection 36 (8) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 5, is repealed and the following substituted:

(8) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school Determination as to type of elector

elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the enumeration list delivered to the clerk under section 22, as revised under section 25.

24.—(1) Subsection 37 (3) of the Act is repealed and the following substituted:

(3) When the nomination papers have been certified, the clerk shall cause the name, mailing address and qualifying address of each candidate nominated and office for which the candidate is nominated,

- (a) to be posted in the office of the clerk or in a conspicuous place open to inspection by the public; and
- (b) if Part III applies to the election of the members to the office, to be sent to the Commission.

(2) Section 37 of the Act is amended by adding the following subsection:

(3a) In this section, “qualifying address” means the address which qualifies the candidate to be an elector under clause 12 (1) (a) or 13 (1) (a).

(3) Clause 37 (4) (b) of the Act is amended by striking out “if, on examination of the nomination paper prior to 4 o’clock in the afternoon on the day following nomination day” at the beginning and substituting “the clerk shall examine the nomination paper before 4 p.m. on the first day following nomination day that is not a Saturday or a holiday and if”.

(4) Subsection 37 (5) of the Act is amended by striking out “day following nomination day” in the first and second lines and substituting “first day following nomination day that is not a Saturday or a holiday”.

(5) Subsection 37 (7) of the Act is repealed and the following substituted:

(7) The clerk shall establish and maintain in his or her office a list setting out the name, mailing address and qualifying address of every candidate whose nomination has been certified under this section for the respective offices for which persons may be nominated in the order of certification and copies of this list shall be prominently displayed in one or more locations.

(8) The list under subsection (7) shall be completed no later than 4 p.m. on the first day following nomination day that is not a Saturday or a holiday but where the clerk has received additional nominations under subsection (5), a list showing the names of the additional candidates nominated shall be completed and posted by the clerk no later

than 4 p.m. on the Thursday following nomination day.

25. Section 39 of the Act is repealed and the following substituted:

39.—(1) A person nominated as a candidate in an election may withdraw his or her nomination by instrument in writing, verified by his or her affidavit, and delivered to the clerk before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday.

(2) A person who has been nominated for more than one office may withdraw from one or more offices by filing a written withdrawal with the clerk in his or her office before 5 p.m. on the first day following nomination day that is not a Saturday or a holiday and in default the person shall be deemed to be nominated for the office for which he or she was first nominated and to have withdrawn the nomination for any other office.

26.—(1) Subsection 40 (1) of the Act is repealed and the following substituted:

(1) If no more candidates are nominated at the end of nomination day for any office than the number to be elected, the clerk shall immediately after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the candidate or candidates duly elected.

(2) Subsection 40 (3) of the Act is repealed and the following substituted:

(3) If more candidates are nominated for an office than the number to be elected but one or more candidates withdraws his or her nomination so that the number remaining is no more than the number required to be elected, the clerk shall promptly after 5 p.m. on the first day following nomination day that is not a Saturday or a holiday declare the remaining candidate or candidates to be duly elected.

(3) Subsection 40 (4) of the Act is amended by inserting after “election” in the third line “under section 92”.

(4) Section 40 of the Act is amended by adding the following subsection:

(6) A quorum under subsections (4) and (5) means a quorum of all members of a body, including persons who are members by virtue of office.

27. Section 42 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 7, is repealed and the following substituted:

42. If a poll is held in an election, the votes shall be given by ballot.

Posting

Definition

List of candidates

Completion of list

Withdrawal

Where nominated for more than one office

Acclamation

Idem

Quorum

Voting by ballot

USE OF VOTING DEVICES

Use of voting devices

42a.—(1) The council of a municipality may, by by-law passed on or before the 1st day of April in an election year, authorize the use at elections of voting machines, voting recorders, optical scanning vote tabulators or other voting devices for the purposes of voting or counting votes and a copy of the by-law shall be forwarded by the clerk of the municipality to the Minister promptly after it is passed.

Repealing of by-law

(2) A by-law passed under subsection (1) or a predecessor thereof shall remain in force until repealed by the council of the municipality, but no such repealing by-law shall take effect for the purposes of the election next following its passage unless the repealing by-law is passed on or before the 1st day of April in the year in which the election is held.

Order of Minister

(3) Despite any other provision of this Act, if a municipality passes a by-law under subsection (1), the Minister may by order provide for those matters which, in the opinion of the Minister, are necessary to conduct the election by the use of the equipment described in the by-law, including,

- (a) the form of the ballot;
- (b) directions for the marking of a ballot by an elector;
- (c) directions for the voting procedures to be used including the procedures for,
 - (i) the taking of the votes,
 - (ii) the examination of the ballots, by machine or otherwise, to determine which ballots or votes should be rejected,
 - (iii) the counting, by machine or otherwise, of the votes, and
 - (iv) the recounting, by machine or otherwise, of the votes.

Conflicts

(4) An order under subsection (3) may establish different procedures and mechanisms for carrying out the elections than are established under this Act and, in the event of a conflict between the order and this Act, the order shall prevail.

Application to court

42b.—(1) If, in any election, an elector has reasonable grounds for believing that the validity of the election is in doubt because of problems related to the use of equipment described in an order under subsection 42a (3), the elector may make an application to a judge of the Ontario Court (Provincial Division) for a determination as to whether a recount should be held.

(2) Subsections 87 (2) to (8) apply with necessary modifications to an application under subsection (1). Procedures

(3) An order of a judge requiring a recount to be held shall provide that the recount be conducted by equipment in accordance with an order under subsection 42a (3) or manually in accordance with this Act. Contents of order

(4) Despite subsection (3), the judge may require that the recount be conducted in such manner and on such terms as specified in the order and these requirements may differ from the method of conducting a recount established in an order under subsection 42a (3) or established under this Act. Idem

(5) Except as provided in this section, no proceedings may be commenced to request a recount due to problems related to the use of equipment described in an order under subsection 42a (3). Restriction

28.—(1) Section 43 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 8, is further amended by adding the following subsection:

(1a) The council of a municipality may by by-law, passed before nomination day, require the clerk under subsection (1) to prepare and cause to be printed a sufficient number of ballots in the prescribed form for use by visually impaired electors in the election. Special ballots

(2) Subsection 43 (3) of the Act is amended by inserting after “arranged” in the third line “and, if the candidates have identical surnames, in order of their given names alphabetically arranged”.

29.—(1) Subsection 44 (3) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(3) For an election in a township that constitutes a borough within The Municipality of Metropolitan Toronto, one set of ballots shall be prepared for all the polling subdivisions containing the names of the candidates for the office of mayor and another set of ballots for each ward containing the names of the candidates for the office of alderman or councillor. Borough in Metropolitan Toronto

(2) Subclause 44 (7) (a) (ii) of the Act is repealed and the following substituted:

- (ii) trustee, commissioner or other member of a local board.

30.—(1) Section 46 of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 9 and 1988, chapter 33, section 3, is further amended by adding the following subsections:

Additional
polling places

(1a) If, in the opinion of the clerk, it is necessary to ensure that the maximum number of electors have access to conveniently located polling places, the clerk may request, not less than fourteen days before polling day, that premises be made available as a polling place that are under the control of,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality, including a regional municipality;
- (c) a school board; or
- (d) a provincially funded institution.

Compliance

(1b) A landlord, municipality, school board or institution receiving a request under subsection (1a) shall provide a space, other than a space actually being used as a dwelling, acceptable to the clerk for use as a polling place.

Space
provided
without
charge

(1c) A municipality, school board or institution receiving a request under subsection (1a) shall make its premises available as a polling place free of charge.

(2) Subsection 46 (11) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 9, is amended by adding at the end “or the clerk shall take such other steps that he or she considers necessary to provide the information to the electors”.

31. Subsection 47 (1) of the Act, as re-enacted by the Statutes of Ontario, 1985, chapter 4, section 8, is repealed and the following substituted:

Special
polling places

(1) A polling place shall be provided in or upon the premises of an institution located in a municipality that is,

- (a) an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces;
- (b) an institution which has twenty or more beds occupied by persons who are disabled;
- (c) an institution, including a hospital, a psychiatric facility, a home for the aged and a nursing home, which has twenty or more beds occupied by persons who are chronically ill or infirm; or
- (d) a retirement home which has fifty or more beds occupied.

Interpretation

(1a) In subsection (1), a bed shall be deemed to be occupied if it is occupied on nomination day.

32. Subsection 48 (2) of the Act is repealed and the following substituted:

(2) A ballot box shall be made of durable material and constructed so that the ballots can be deposited therein and cannot be withdrawn without the box being unsealed or being unsealed and unlocked, as the case may be.

Ballot box

33.—(1) Subsection 49 (1a) of the Act, as enacted by the Statutes of Ontario, 1987, chapter 12, section 11, is repealed and the following substituted:

(1a) Despite subsection (1), an elector whose name appears on the polling list for more than one polling subdivision in a regional municipality or in a school board jurisdiction shall not vote in more than one of the polling subdivisions in an election for the office of a member of a regional council or of a school board, respectively.

Restriction

(2) Subsection 49 (4) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 10, is repealed and the following substituted:

(4) For the purposes of this section, the determination as to whether an elector is a public school elector, a separate school elector, an English language public school elector, an English language separate school elector, a French language public school elector or a French language separate school elector shall be in accordance with the electoral status indicated on the list certified under section 31.

Determi-
nation
of status

34. Section 52 of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 4, is further amended by adding the following subsection:

(2) Despite subsection (1), the returning officer may close a polling place located in an institution or upon the premises of an institution described in subsection 47 (1) any time after 1 p.m. if the polling place is only for the use of residents and patients of the institution and all of the electors on the polling list for that polling place have voted or have indicated in response to the inquiry of the deputy returning officer that they do not intend to vote.

Closing of
polling place

35. Subsection 53 (2) of the Act is amended by adding at the end “if the inspection does not impede the opening of the poll on time”.

36. Section 54 of the Act is repealed and the following substituted:

54. A deputy returning officer shall,

- (a) immediately before opening the poll at his or her polling place, show the ballot box to the persons present in the polling place so that they may see it is empty;

Inspection,
sealing of
ballot box

- (b) seal the box or seal and lock the box in such a manner as to prevent it from being opened without breaking the seal;
- (c) keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present; and
- (d) keep the box sealed or sealed and locked until the box is required to be opened to count the votes under section 71.

37.—(1) Paragraph 3 of subsection 55 (1) of the Act is repealed.

(2) Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 7a. If the deputy returning officer is satisfied that such person is the person designated in the polling list or in a certificate mentioned in paragraph 1 and is otherwise entitled to vote and if no candidate or scrutineer objects to voting by that person, the deputy returning officer shall initial the back of a ballot paper so that when the ballot is folded the initials can be seen without opening it and shall deliver the ballot paper to that person.

38. The Act is further amended by adding the following section:

57a. For the purpose of establishing the identity of a person under section 56 or 57, the deputy returning officer may require the person to provide personal identification.

39. Subsection 63 (1) of the Act is amended by striking out “unable to read” in the first and second lines and substituting “illiterate”.

40.—(1) Subsection 66 (1) of the Act, as amended by the Statutes of Ontario, 1988, chapter 33, section 5, is repealed and the following substituted:

(1) The clerk shall hold an advance poll in accordance with this section on the Saturday nine days before polling day and on the Wednesday immediately before polling day for the purpose of receiving votes of electors who expect to be unable to vote on polling day in the polling subdivision for which their names appear on the polling lists or who are entitled to vote either under a certificate issued by the clerk under section 33 or who become entitled to vote under section 56.

(2) Subsection 66 (5) of the Act is repealed and the following substituted:

(5) Immediately after the close of the advance poll, the deputy returning officer shall deliver to the clerk a list of the names of all persons who have voted showing in

each case the number of the polling subdivisions in which the elector is entered in the polling list and the clerk shall, at the request of any candidate, give him or her a copy of the list of names of all persons who have voted at the advance poll.

(3) Subsection 66 (8) of the Act is amended by inserting after “presence of” in the second line “the poll clerk and”.

41.—(1) Subsection 67 (3) of the Act, as amended by the Statutes of Ontario, 1985, chapter 4, section 9, is repealed and the following substituted:

(3) A voting proxy may only act as a voting proxy for,

Limitation

- (a) one person who is not a relative; or
- (b) one or more persons who are relatives.

(3a) In subsection (3), “relative” means the parent, grandparent, child, grandchild, brother, sister or spouse of the voting proxy.

Definition

(2) Subsection 67 (5) of the Act is repealed and the following substituted:

(5) A person who has been appointed a voting proxy shall complete an application in the prescribed form, including a statutory declaration that the person is the person appointed as a voting proxy, and shall appear before the clerk in person for this purpose at the clerk’s office,

Application for proxy certificate

- (a) during normal office hours; or
- (b) during the period from 12 noon to 5 p.m. on the Saturday of the advance poll held under section 66.

(3) Subsection 67 (6) of the Act is repealed and the following substituted:

(6) Where an application is completed under subsection (5) and the clerk is satisfied that the person who appointed the voting proxy is qualified to appoint a voting proxy under this Act and the voting proxy is qualified to be a voting proxy under this Act, the clerk shall give a certificate in the prescribed form across the face of the appointment of the voting proxy to that effect.

Certificate of proxy

42.—(1) Clause 71 (2) (d) of the Act is amended by striking out “can” in the second line and substituting “may”.

(2) Section 71 of the Act is amended by adding the following subsection:

(2a) In counting the votes, the deputy returning officer shall reject any vote that is not marked within the circle or circular space to the right of the name of a candidate.

Idem

(3) Subsection 71 (5) of the Act is repealed and the following substituted:

Identification

Advance poll

List of persons voting

Where part
of votes
rejected

(5) If part of the votes cast in any ballot are rejected under this section, the deputy returning officer shall note that fact on the back of the ballot and initial the note and if all the votes on the ballot are rejected under this section, the ballot shall be treated as a rejected ballot.

Recount

(6) This section, except subsection (1), applies with necessary modifications to the counting of votes in a recount under this Act.

43. Clause 77 (1) (k) of the Act is repealed.

44. Subsection 80 (2) of the Act, as re-enacted by the Statutes of Ontario, 1982, chapter 37, section 13, is amended by adding at the beginning "Despite section 90".

45. Section 83 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 8, is repealed and the following substituted:

Recount
officer

83.—(1) Subject to subsection (2), the clerk of a municipality is the recount officer for all elections for which the clerk is the returning officer.

Substitution
for clerk

(2) The clerk may appoint a person as recount officer to act in place of the clerk and, if the clerk is disqualified under subsection (4), the clerk shall make the appointment.

Idem

(3) If the person appointed recount officer refuses or is unable to act, the clerk may appoint another person as recount officer to act in place of the clerk.

Disqualifi-
cation

(4) No person shall be appointed as a recount officer who,

- (a) is a candidate or the spouse of a candidate;
- (b) is less than eighteen years of age; or
- (c) has participated in the actual counting of the ballots for a polling subdivision in the election.

Limitation

(5) Clause (4) (c) does not apply if the recount does not involve the examining and counting of ballots for the polling subdivision in respect of which the person who is to be recount officer participated in the actual counting of the ballots.

46. Section 84 of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

47. Clause 85 (3) (a) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding at the end "or the spouse of a candidate".

48. Subsection 86 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking

out "seven" in the second line and substituting "twenty".

49.—(1) Subsections 86a (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

(1) The recount officer shall hold a recount, Where vote is close

- (a) if a candidate who was not declared elected requests it in writing; and
- (b) if the number of votes separating a candidate who was not declared elected and a candidate who was declared elected or, for an office to which more than one person may be elected, who was declared elected with the least number of votes is less than the greater of,
 - (i) ten votes, and
 - (ii) one-half of one vote for each polling subdivision in the election for that office or 0.25 per cent of the total number of votes cast for that office, whichever is the lesser.

(2) Where there is a close vote entitling a candidate to request a recount under subsection (1), the clerk shall include the results of the close vote calculations in the statement required under subsection 79 (2) or (3). Results

(2) Subsection 86a (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

50.—(1) Subsection 86b (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "regional municipality or metropolitan municipality" in the second and third lines and substituting "or regional municipality".

(2) Subsection 86b (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

51.—(1) Subsection 87 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "no earlier than ten days and" in the second line.

(2) Subsection 87 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed.

52.—(1) Subsection 88 (1) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by insert-

ing after "give" in the first line "by personal service or registered mail".

(2) Subsection 88 (5) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "have present a scrutineer appointed for that purpose" in the fourth line and substituting "appoint and have present one scrutineer for each recount station established by the recount officer".

(3) Subsection 88 (6) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "Subsections 4 (8) and (10)" in the first line and substituting "Subsection 4 (8)".

53.—(1) Subsection 88b (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out at the beginning "Subject to sections 88c and 88d".

(2) Section 88b of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by adding the following subsections:

(3) Upon completion of the recount, the recount officer shall,

- (a) announce the result, including the number of disputed ballots, to the persons present at the recount;
- (b) calculate the result excluding the disputed ballots in the envelope described in clause (d);
- (c) subject to clause (d), seal the ballots in their original envelopes and the original statements in a separate envelope clearly marked so as to indicate its contents; and
- (d) write the number of the polling subdivision on the back of and initial any disputed ballots and seal them in a separate envelope clearly marked so as to indicate its contents.

(4) The recount officer shall certify in writing the result of the recount and promptly give the returning officer a certified copy of the result.

(5) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the certified copy of the result of the recount under subsection (4).

(6) After the certification of the result of the recount, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (5) to be elected or certify

to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an application is made under subsection 88c (1).

54. Section 88c of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9 and amended by 1989, chapter 56, section 30, is repealed and the following substituted:

88c.—(1) A candidate who disputes the validity of a ballot or of the counting of votes in any ballot may, within fifteen days following the completion of the recount by the recount officer, make an application to a judge of the Ontario Court (Provincial Division) for a recount limited to the disputed ballots.

(2) The applicant shall serve notice of the application upon the recount officer and, if the application concerns an election to office, upon each candidate for that office.

(3) Subsection 107 (1) applies with necessary modifications to an application under subsection (1).

(4) If an application is made under subsection (1), the recount officer shall attend the hearing of the application and provide the judge with,

- (a) a certified copy of the result of the recount conducted by the recount officer;
- (b) a certified copy of the result of the recount conducted by the recount officer excluding the disputed ballots;
- (c) the sealed envelope containing the disputed ballots from the recount conducted by the recount officer; and
- (d) any other documents relating to the election that are relevant to the application.

(5) The judge, in the presence of the persons entitled to be present at the recount conducted by the recount officer and who have attended the hearing, shall,

- (a) determine the validity of the disputed ballots or the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots;
- (b) recalculate the result of the election using the determinations the judge made in clause (a) and the certified results provided by the recount officer in clause (4) (b); and
- (c) calculate the result of the election excluding the ballots disputed under subsection (6).

Application
for recount

Service

Procedures

Documents
to be
provided by
recount
officer

Determina-
tion by judge

Duties of
recount
officer after
recount

Certification

Tied vote

After certifi-
cation

Disputed
ballots

(6) If a party to the application requests the judge to do so, the judge shall initial any ballots the validity of which, despite any order to the contrary made by the judge under this section, is disputed by the party.

Order

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (5) and shall,

- (a) announce the result of the recount, including the number of disputed ballots, to the persons present at the recount;
- (b) seal any ballots the validity of which is disputed under subsection (6) in a separate envelope clearly marked so as to indicate its contents;
- (c) except for the ballots described in clause (b), seal the disputed ballots from the recount conducted by the recount officer in their original envelope;
- (d) give the envelope referred to in clause (b) to the recount officer; and
- (e) return the envelopes referred to in clause (c) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

Certified
copy of order

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

Tied vote

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the lot to the returning officer together with the order under subsection (8).

Results
declared or
certified by
returning
officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable, unless within fifteen days following the completion of the recount, an appeal is made under subsection 88d (1).

55. Sections 88d and 88e of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Appeal

88d.—(1) Any party to the recount under section 88c may, within fifteen days following the completion of the recount of the judge under that section, appeal the decision of the judge to the Ontario Court (General Division).

(2) The appeal under subsection (1) shall be a recount limited to the disputed ballots in the envelope described in clause 88c (7) (b).

Nature of
appeal

(3) The appellant shall serve the notice of appeal upon the recount officer and, if the appeal concerns an election to office, upon each candidate for that office.

Service

(4) Subsection 107 (1) applies with necessary modifications to an appeal under subsection (1).

Procedures

(5) If an appeal is made under subsection (1), the recount officer shall attend the appeal and provide the court with,

Documents
to be
provided by
recount
officer

- (a) a certified copy of the order of the judge under section 88c;
- (b) the sealed envelope described in clause 88c (7) (b) containing the disputed ballots from the recount conducted by the judge under section 88c; and
- (c) any other documents relating to the election that are relevant to the appeal.

(6) One judge of the Ontario Court (General Division) shall, in the presence of the parties who have attended the appeal,

Determi-
nation

- (a) determine the validity of the disputed ballots or of the counting of votes in any disputed ballots and for this purpose shall open the sealed envelope containing the disputed ballots; and
- (b) recalculate the result of the election using the determinations made in clause (a) and the calculations of the judge of the Ontario Court (Provincial Division) described in clause 88c (5) (c).

(7) Upon completion of the recount, the judge shall make an order providing for those matters described in subsection (6) and shall,

Order

- (a) announce the result of the recount to the persons present at the recount;
- (b) seal the disputed ballots in their original envelope; and
- (c) return the envelope referred to in clause (b) along with any documents relating to the election that were provided to the judge by the recount officer, to the recount officer.

(8) The judge shall give a certified copy of the order to the recount officer who shall promptly give it to the returning officer.

Certified
copy of order

(9) In the case of a tied vote under section 88f, the recount officer shall determine the successful candidate by lot under that section and give a certified copy of the result of the

Tied vote

lot to the returning officer together with the order under subsection (8).

Declaration
or certifi-
cation by
returning
officer

(10) After receipt of the order, the returning officer shall declare the candidate or candidates, as the case may be, having the greatest number of votes or being a successful candidate in a lot under subsection (9) to be elected or certify to the council the result of the vote with respect to a by-law or question, as applicable.

56. Sections 88g and 88h of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, are repealed and the following substituted:

Costs of
recount

88g.—(1) Unless a court otherwise orders, the costs, including the costs of the candidates, of a recount under this Act whether conducted by a recount officer or a judge shall be borne by the municipality, school board or local board to which the recount relates.

Frivolous
proceedings

(2) Despite subsection (1), if a court finds that an application or appeal is frivolous or vexatious, the court may order that the costs of the application or appeal be paid by the person who made the application or appeal.

Discretion of
court not
restricted

(3) Nothing in subsection (2) limits or restricts the discretion of a court in awarding costs.

Records to
be returned

88h. After the returning officer makes a declaration of the results of an election under subsection 88b (6), 88c (10) or 88d (10), the recount officer shall return all election records to the returning officer.

57. Subsection 88i (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted:

Right to sit

(1) A candidate declared elected is entitled to sit on the council, school board or local board even if a request or application for a recount has been filed or a resolution for a recount has been passed and is entitled to continue to sit and vote until the recount and all applications and appeals under this Act have been disposed of and a different candidate has been declared elected.

58.—(1) Subsection 89 (1) of the Act is amended by striking out “unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election” in the third, fourth and fifth lines and substituting “subject to subsection (1a)”.

(2) Section 89 of the Act, as amended by the Statutes of Ontario, 1988, chapter 20, section 15, is further amended by adding the following subsection:

(1a) The clerk shall not destroy the ballots under subsection (1),

Retention of
ballots

(a) if a judge or officer having jurisdiction to inquire as to the validity of the election issues an order requiring the ballots to be retained; or

(b) if the recount proceedings, including appeal periods, regarding the election have not yet been completed.

59. The Act is further amended by adding the following section:

91a.—(1) No person shall use an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act for commercial purposes.

Prohibition
respecting
use of lists

(2) No person shall knowingly sell an enumeration list, a preliminary list, a polling list or any other list of electors prepared as part of the election process under this Act to any person who intends to use the list for commercial purposes.

Prohibition
respecting
sale of lists

60.—(1) Subsection 92 (1) of the Act, as amended by the Statutes of Ontario, 1987, chapter 10, section 38, is repealed and the following substituted:

(1) Where a new election is required under this or any other Act to fill a vacancy in any office by an election, other than a regular election, the clerk of the municipality who is the returning officer with whom nominations may be filed shall set the date of the nomination day which shall be within sixty days of the day on which,

New election

(a) an order to hold a new election is given in any judicial proceedings;

(b) the council of the municipality passes a by-law to hold a new election;

(c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating a new election is required;

(d) an order to hold a new election is given by the Minister under section 48 of the *Municipal Act*;

(e) a candidate for the office of the head of council dies under the circumstances described in clause 38 (2) (b); or

(f) if a new election is required to be held under subsection 40 (4), the last acclamations for that office are made under section 40.

(2) Subsection 92 (2) of the Act is amended by striking out “not less than eighteen and not more than twenty-one” in the fourth line and substituting “twenty-eight”.

(3) Paragraph 1 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is amended by inserting after “mail” in the second line “or personal service”.

(4) Paragraph 2 of subsection 92 (4) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

2. The assessment commissioner shall deliver to the clerk the enumeration list updated under section 14 of the *Assessment Act* to the date of receiving the notice under paragraph 1.

(5) Clause 92 (5c) (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 16, is repealed and the following substituted:

- (d) the period during which a person may qualify as an elector entitled to vote on the by-law or question shall be the period commencing twenty-one days after the effective date of the Board's order and ending thirty-six days later.

61. Section 99 of the Act, as amended by the Statutes of Ontario, 1989, chapter 72, section 71, is repealed and the following substituted:

99. Every clerk, returning officer, deputy returning officer or poll clerk who wilfully refuses or neglects to perform any of the duties imposed upon him or her by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

62. Subsection 105 (1) of the Act is repealed and the following substituted:

(1) Where a candidate at an election is convicted of bribery or of committing a corrupt practice, the candidate is ineligible to be nominated for or elected or appointed to any office for a period of six years following the date of the poll.

63.—(1) Subsection 106 (2) of the Act, as amended by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed and the following substituted:

(2) Where the court determines that a person has committed a corrupt practice, it may, in addition to any other penalty, impose the penalties provided therefor under sections 96 to 102.

(2) Subsection 106 (5) of the Act, as enacted by the Statutes of Ontario, 1982, chapter 37, section 24, is repealed.

64. The Act is further amended by adding the following section:

119a. The council of a municipality may by by-law provide that any election related information, in addition to being printed in the English language, be printed in any other language reasonable in the circumstances.

Election information in languages other than English

65.—(1) The definition of “campaign expense” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “the closing of the poll”.

(2) The definitions of “campaign period”, “contribution” and “municipality” in subsection 121 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

- (a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and
- (b) in the case of a new election, the period commencing the day on which,
 - (i) an order to hold a new election is given in any judicial proceeding,
 - (ii) the council of the municipality passes a by-law to hold a new election,
 - (iii) the clerk receives from the secretary of a school board notice that a new election is required,
 - (iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or
 - (v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made to a person or representative of the person for purposes of the election of that person at the next election but does not include,

- (a) any goods produced for a person by voluntary unpaid labour, and
- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

Neglect of duties

Ineligibility

Penalties for corrupt practice

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 121 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Associated corporations

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

66.—(1) Subsection 122 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Registration of candidate

(1) Every person who proposes to be a candidate shall, no earlier than the 1st day of January of the election year and no later than nomination day, file with the clerk of the municipality who is responsible for the conduct of the election a notice of registration in the prescribed form setting out,

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the place or places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer, if any, of the registered candidate;
- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons, if any, responsible for making the deposits referred to in clause (g).

(2) Clause 122 (2) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the clerk receives from the secretary of the school board a copy of a resolution of the board indicating that a new election is required.

(3) Subsection 122 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding "or" at the end of clause (d) and by adding the following clause:

- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

(4) Subsection 122 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after "contributions" in the third line "or incur expenses".

(5) Subsection 122 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) The clerk shall keep a register of all notices of registration filed under this section.

Register

(6) Clauses 122 (7) (c) and (d) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed.

(7) Section 122 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Change of office

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate notice of registration.

Onus

67.—(1) Clause 123 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the clerk under subsection 122 (1) are opened exclusively for election campaign purposes in the name of the election campaign of the registered candidate;

- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

(2) Subsection 123 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If a registered candidate has not appointed a chief financial officer, the registered candidate is the chief financial officer.

68.—(1) Subsections 124 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) Contributions may be made only by individuals, corporations and trade unions and shall be made only to persons who are registered under this Part.

(2) No person and no individual, corporation or trade union acting on behalf of a person shall solicit or accept a contribution except for persons who are registered under this Part.

(2) Subsection 124 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

(3) Section 124 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(5a) If a registered candidate changes the office for which he or she is registered under section 122 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 125 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

(4) Subsection 124 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “(5)” in the second line “or (5a)”.

(5) Subsection 124 (7) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(7) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

- (a) to any registered candidate which in total exceeds \$750 in value; or
- (b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(6) Subsection 124 (8) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “section” in the fourth line and substituting “Part”.

(7) Subsection 124 (9) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

69.—(1) Subsection 125 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) A registered candidate shall issue or cause to be issued receipts in the prescribed form for every contribution accepted.

(2) Subsection 125 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(6) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the registered candidate.

(3) Subsection 125 (11) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(11) A registered candidate shall keep a record of the value of every contribution, whether in the form of money, goods or services, and of the name and address of the contributor.

70.—(1) Subsections 126 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A fund-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 126 (4) of the Act, as enacted by the Statutes of Ontario, 1988,

Where no chief financial officer appointed

Contributions

Restriction

Change of office

Limitation on contributions

Receipts

Group contributions

Record of contributions

Definition

When fund-raising function to be held

chapter 33, section 12, is repealed and the following substituted:

Charges as
contribution

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

71. The Act is further amended by adding the following section:

Restrictions
respecting
advertising

126a. Sections 152 and 164 apply with necessary modifications to elections under this Part.

72.—(1) Subsection 129 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Subsection 129 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

(3) Clause 129 (5) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” in the third line and substituting “one or more area municipalities”.

73. Subsection 130 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 122 (5)” at the end and substituting “section 122”.

74.—(1) Clause 132 (1) (c) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (c) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor was more than \$100; and

(2) Subsection 132 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “or” in the second line and substituting “and”.

(3) Subsection 132 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) If the contributions received by or on behalf of a registered candidate do not exceed \$2,000 and expenses incurred by or on behalf of such registered candidate do not exceed \$2,000, the registered candidate may, instead of filing the financial statement required under subsection (1), file a statutory

Where
statutory
declaration
sufficient

declaration, which includes the information described in clause (1) (c), to that effect.

75. The Act is further amended by adding the following section:

132a.—(1) If the financial statement, report or statutory declaration of a registered candidate filed under section 132 shows a surplus, the surplus shall be immediately paid over to the clerk who was responsible for the conduct of the election who shall hold it in trust for the registered candidate for use in whole or in part by the registered candidate in the next regular election.

Surplus

(2) The clerk shall not release the surplus held in trust for a candidate under subsection (1) to the candidate for use in whole or in part in the next regular election until the candidate has become registered under this Part for that election.

Release of
funds

(3) If the candidate for whose benefit the surplus is held in trust under subsection (1) becomes registered under this Part for a new election that precedes the next regular election, the clerk shall release the surplus to the candidate for use in whole or in part in that new election.

Idem

(4) The amount released to the candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

Interest

(5) In any election, a surplus is the amount by which the total of,

Surplus

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and expenses incurred in holding a fund-raising function referred to in section 126; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election, if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(6) A deficit under clause (5) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (5) (c) and (d) exceeds the total of the amounts described in clauses (5) (a) and (b).

Deficit

Restriction

(7) No surplus shall be released under subsection (2) or (3) to the registered candidate for whose benefit it is held in trust if the office for which the candidate has been or will be nominated in the election is not on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

Disposal of surplus

(8) The surplus shall be paid into the general funds of the municipality, school board or local board, as the case may be, if, in the next regular election, the candidate for whose benefit the surplus is held in trust under subsection (1),

- (a) notifies the clerk in writing that the candidate does not intend to seek nomination;
- (b) fails to be nominated;
- (c) is ineligible to be nominated; or
- (d) fails to become registered.

Idem

(9) Upon the passage of any by-law passed under section 139 or any resolution under section 140 or 141, any surplus held by the clerk under this section shall be paid into the general funds of the municipality, school board or local board, as the case may be.

76. Section 133 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Ineligibility respecting future elections

133.—(1) If a registered candidate,

- (a) fails to file a financial statement, a report or statutory declaration as required by section 132 within thirty days of the date of the notice sent under subsection 132 (6); or
- (b) on the face of the financial statement, report or statutory declaration filed as required by section 132, has incurred campaign expenses in excess of the amount permitted under section 129,

the registered candidate, in addition to any other penalty, is ineligible to be elected to or to hold any office up to and including the next regular election.

Forfeiture of office

(2) If a registered candidate fails to file the documents referred to in clause (1) (a), or on the face of the financial statement, report or statutory declaration has exceeded the amount referred to in clause (1) (b), the clerk shall within five days of the default give written notice of the default by registered mail or personal service to the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office, and any office to which the registered candidate was elected shall be deemed

vacant and the registered candidate shall forfeit the office.

(3) A notice served by registered mail under subsection (2) shall be deemed to be received on the fifth day after the day of mailing.

Service

(4) The penalties and disabilities under subsections (1) and (2) take effect,

Effective date

(a) if the registered candidate does not apply under subsection (5), on the seventh day after the day the registered candidate receives notice under subsection (2); or

(b) if the registered candidate applies under subsection (5) and the application is refused, on the day the application is refused.

(5) A registered candidate who receives a notice under subsection (2) may, within six days after the day of receiving the notice, apply to a judge of the Ontario Court (Provincial Division) for an order declaring that the failure to file the documents referred to in clause (1) (a) or exceeding the amount referred to in clause (1) (b) was done through inadvertence or by reason of an error in judgement made in good faith.

Application to judge

(6) If the judge grants the order under subsection (5), the registered candidate is not subject to the penalties and disabilities under subsections (1) and (2).

Consequence of order

77. The Act is further amended by adding the following sections:

133a.—(1) A registered candidate who,

Offence

(a) files a financial statement, a report or a statutory declaration as required by section 132 that is either incorrect or does not comply with section 132 and fails to file a correction statement, report or declaration, as the case may be, within thirty days from the date the clerk files the statement under subsection 132 (5); or

(b) incurs campaign expenses in excess of the amount permitted under section 129,

is guilty of an offence and on conviction, in addition to any other penalty, any office to which the registered candidate was elected shall be deemed vacant, the registered candidate shall forfeit the office and the registered candidate is ineligible to be elected to or to hold any office up to and including the next regular election.

(2) If the convicting court finds that the offence under subsection (1) was committed through inadvertence or by reason of an error in judgment made in good faith, the registered candidate is not subject to the

Relief

penalties and disabilities under subsection (1).

Ineligibility

133b.—(1) If the financial statement, report or statutory declaration of a registered candidate who is not declared elected shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the candidate is, in addition to any other penalty, ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or chief financial officer has paid the surplus to the clerk.

Office declared vacant

(2) If the financial statement, report or statutory declaration of a registered candidate shows a surplus and the candidate fails to pay over the surplus to the clerk as required by section 132a, the clerk shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office, of the default and any office to which the candidate was elected shall be immediately declared vacant.

Penalties unaffected by vacancy

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

78. The Act is further amended by adding the following sections:

COMPLIANCE AUDIT

Audit requested

134a.—(1) If, after the time for the filing of financial statements, reports or statutory declarations under section 132 has expired, an elector has reasonable grounds for believing that a registered candidate has contravened this Part, the elector may apply, in the prescribed form, to the clerk of the municipality with whom the registered candidate was registered under section 122, requesting that a compliance audit of the election campaign finances of the registered candidate be conducted.

Service

(2) Within five days of receiving an application under subsection (1), the clerk of the municipality shall, by personal service or registered mail, deliver a copy of the application to the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, for which the registered candidate was registered as a candidate for office.

Consideration of request

(3) Within thirty days of receiving a copy of an application under subsection (2), the council of the municipality, the school board or the local board, as the case may be, shall consider the application and decide whether or not to appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

(4) An appointment of the auditor under subsection (3) shall be in the form of a resolution.

Resolution required

(5) If an application for a compliance audit is refused or the council, school board or local board, as the case may be, refuses or neglects to make a decision thereon within the thirty-day period under subsection (3), the elector may appeal to the Commission and the Commission shall consider the appeal and may appoint an auditor licensed under the *Public Accountancy Act* to conduct a compliance audit of the election campaign finances of the registered candidate.

Appeal to Commission

134b.—(1) Upon being appointed by the council of a municipality, a school board, a local board or the Commission under section 134a, the auditor shall immediately conduct an audit of the election campaign finances of the registered candidate in order to determine whether or not the registered candidate has complied with this Part.

Compliance audit

(2) A compliance audit under subsection (1) shall include an investigation and audit of,

Idem

- (a) the financial statement, report or statutory declaration filed under section 132;
- (b) the contribution receipts issued under subsection 125 (5);
- (c) the campaign expenses records under subsection 129 (3);
- (d) the records related to the campaign account registered with the clerk under section 122; and
- (e) any other books, papers, documents or things relevant to the compliance audit.

(3) Upon completion of the compliance audit, the auditor shall prepare a report outlining the apparent contraventions, if any, of this Part by the registered candidate and submit it to,

Report of auditor

- (a) the Commission;
- (b) the registered candidate;
- (c) the council of the municipality, the school board or the local board, as the case may be, for which the registered candidate was registered to run for office under section 122; and
- (d) the clerk of the municipality who registered the registered candidate under section 122.

(4) For the purpose of performing a compliance audit under this Part, the auditor,

Powers of auditor

(a) has the right of access, at all reasonable hours, to all books, papers, documents or things of the registered candidate and of a municipality, school board or local board relevant to the compliance audit; and

(b) has the powers of a commission under Part II of the *Public Inquiries Act* which Part applies to the compliance audit as if it were an inquiry under that Act.

Costs

(5) The costs of the auditor incurred in performing a compliance audit shall be paid by the municipality, school board or local board, as the case may be, for which the registered candidate who was the subject of the compliance audit was registered to run for office.

Frivolous applications

(6) Despite subsection (5), if the Commission finds that an application under section 134a is frivolous or vexatious, the Commission may order all or any part of the costs paid by the municipality, school board or local board, as the case may be, to be recovered from the person who made the application and an action may be brought by the municipality, school board or local board to make the recovery.

Immunity respecting audit

(7) No action or other proceeding for damages shall be instituted against an auditor appointed under section 134a for any act done in good faith in the execution or intended execution of a compliance audit or for any alleged neglect or default in the execution in good faith of the compliance audit.

Legal proceeding

134c.—(1) The council of the municipality, the school board or the local board, as the case may be, shall within thirty days of receiving a report under clause 134b (3) (c) consider the findings of the report and may, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

Commission to be notified

(2) If the council of the municipality, the school board or the local board, as the case may be, refuses to initiate legal proceedings under subsection (1), or refuses or neglects to make a decision thereon within thirty days of receiving the report, the clerk of the municipality or the secretary of the school board or of the local board, as the case may be, shall immediately notify the Commission in writing by registered mail of that fact.

Legal proceedings

(3) The Commission, after receiving the notice under subsection (2), shall consider the report and, if it considers it appropriate, initiate legal proceedings against the registered candidate in respect of any contraventions of this Act which the report may reveal.

POWERS OF COMMISSION

134d.—(1) Except as otherwise provided in this Part, the provisions of the *Election Finances Act, 1986* relating to the powers and duties of the Commission apply with necessary modifications to the Commission acting under this Part.

Powers and duties

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

Guidelines

(3) The Commission may initiate legal proceedings against any person in respect of a contravention of this Part.

Legal proceedings

79.—(1) The definition of “campaign expense” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “polling day” at the end of clause (d) and substituting “closing of the poll”.

(2) The definitions of “campaign period”, “Commission”, “contribution” and “municipality” in subsection 138 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

“campaign period” means,

(a) in the case of a regular election, the period commencing on the 1st day of January of an election year and ending on the 31st day of March in the year following the election year, and

(b) in the case of a new election, the period commencing on the day on which,

(i) an order to hold a new election is given in any judicial proceeding,

(ii) the council of the municipality passes a by-law to hold a new election,

(iii) the clerk receives from the secretary of a school board notice that a new election is required,

(iv) an order to hold a new election is given by the Minister under the *Municipal Act*, or

(v) the clerk sets the nomination day for a new election required by section 38 or 40,

and ending 135 days after the closing of the poll;

“contribution” means a contribution made for the purposes of the election of a person but does not include,

(a) any goods produced for a person by voluntary unpaid labour, and

- (b) any service voluntarily performed for a person by an individual if the individual does not receive from any person or trade union, under an arrangement with the individual's employer, compensation in excess of what the individual would normally receive during the period the service was performed;

"municipality" means a city, town, village, police village, township or regional municipality.

(3) Subsection 138 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) Corporations that are associated with one another under section 256 of the *Income Tax Act* (Canada) shall be considered as a single corporation for the purposes of this Act.

80.—(1) Subsection 139 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(3) If the council of a regional municipality passes a by-law under subsection (1), the clerk of the regional municipality shall send a copy of the by-law to the Commission and to the clerk of any area municipality who is responsible for the conduct of any election to the council of the regional municipality.

(2) Subsection 139 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out "or metropolitan" in the second line.

81. Section 142 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(2) A by-law or resolution under this Part adopting Part III for the 1991 regular election or any subsequent election does not require the approval of the Ontario Municipal Board.

82. Section 143 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

143.—(1) Where the council of a municipality passes a by-law under section 139 or a school board or local board passes a resolution under section 140 or 141, every person seeking election to office on the council, school board or local board, as the case may be, shall, no earlier than the 1st day of January of the election year and no later than nomination day file with the clerk of the municipality who is responsible for the conduct of the election an applica-

tion for registration in the form prescribed by the Commission.

(2) In the case of a new election, the application for registration referred to in subsection (1) shall be filed with the clerk no earlier than the day on which,

Application,
new elections

- (a) an order to hold a new election is given in any judicial proceedings;
- (b) the council of the municipality passes a by-law to hold a new election;
- (c) the clerk receives from the secretary of a school board a copy of a resolution of the board indicating that a new election is required;
- (d) an order to hold a new election is given by the Minister under the *Municipal Act*; or
- (e) the clerk sets the nomination day for a new election required by section 38 or 40,

and not later than nomination day.

(3) A copy of all documents filed with the clerk under this section shall be sent by prepaid registered mail to the Commission immediately upon their receipt.

Documents
to
Commission

(4) No person and no individual, corporation or trade union acting on behalf of any person shall solicit or accept contributions or incur expenses for the purposes of the election of that person at the next election at any time unless the person is a registered candidate.

No contribu-
tions to
unregistered
candidate

(5) The Commission shall maintain a register of candidates in relation to each election and shall register in it any candidate whose application for registration is received from the clerk setting out,

Register

- (a) the name of the office for which the candidate has been or proposes to be nominated;
- (b) the name of the municipality in which the election is to be held or which is responsible for the conduct of the election;
- (c) the full name and address of the registered candidate;
- (d) the address of the places in the municipality or locality where records of the registered candidate are maintained and of the place in the municipality or locality to which communications may be addressed;
- (e) the full names and addresses of the auditor and the chief financial officer of the registered candidate;

Associated
corporations

By-laws to
be sent to
Commission
and clerk

O.M.B.
approval not
required

Application
for
registration

- (f) the full names and addresses of all persons authorized by the registered candidate to accept contributions;
- (g) the name and address of every bank, trust corporation or other financial institution in Ontario that is used by or on behalf of the registered candidate for the deposit of any contributions; and
- (h) the full names and addresses of the persons responsible for making the deposits referred to in clause (g).

Timing

(6) After the Commission has completed the registration or a variation of registration under this section, the registration or variation shall be deemed to have occurred on the day the application under subsection (1) or notice under subsection (8) was filed with the clerk, as the case may be.

Expiry of campaign period

(7) The campaign period with respect to a registered candidate shall be deemed to expire,

- (a) where the nomination is withdrawn, on the day of the withdrawal; and
- (b) where a nomination paper is not filed or the nomination is rejected by the clerk, on nomination day,

and the chief financial officer for that registered candidate shall file with the Commission the statement referred to in section 169 and at the same time file a copy of it with the clerk.

Notice of alteration

(8) If the information referred to in subsection (5) is altered, the candidate shall immediately file notice of the alteration with the clerk in writing and, upon receipt of the notice from the clerk, the Commission shall vary the register accordingly.

Change of office

(9) If a registered candidate changes the office for which he or she is registered under this section to another office on the same council, school board or local board, as the case may be, the registered candidate shall be deemed to be registered for the new office effective from the date the registered candidate was originally registered for an office on the council, school board or local board, as the case may be.

Onus

(10) The onus is on the person who proposes to be registered under this section to file a complete and accurate application for registration.

83. Subsection 144 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subsection 143 (4)” in the first and second lines and substituting “section 143”.

84.—(1) Subsection 145 (1) of the Act, as enacted by the Statutes of Ontario, 1988,

chapter 33, section 12, is amended by striking out “Commission” in the second line and substituting “clerk”.

(2) Subsection 145 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Replacement

(2) If the chief financial officer ceases to hold office, the registered candidate shall immediately appoint another chief financial officer.

(3) Clause 145 (3) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (b) one or more campaign accounts at financial institutions registered with the Commission under section 143 are opened exclusively for election finance purposes in the name of the election campaign of the registered candidate;
- (ba) all money contributions are deposited into the accounts described in clause (b) and all payments for campaign expenses are made from the accounts described in clause (b).

85. Subsection 146 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Contributions

(1) Contributions may be made only by individuals, corporations and trade unions and shall only be made to persons who are registered under this Part.

86.—(1) Section 147 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(1a) If a registered candidate changes the office for which he or she is registered under section 143 to an office other than an office on the same council, school board or local board, as the case may be, the registered candidate or the chief financial officer shall, within thirty days after the change and upon obtaining the contributor's copy of the receipt issued under section 155 in respect of a contribution made to the registered candidate on or before the date of the change, return the contribution or an amount equal to the sum contributed.

Where change of office

(2) Subsection 147 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by inserting after “(1)” in the second line “or (1a)”.

87.—(1) Subsection 148 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

Limitation on contributions

(1) No individual, corporation or trade union shall, during any campaign period, make contributions in money, goods and services,

- (a) to any registered candidate which in total exceeds \$750 in value; or
- (b) to any number of registered candidates registered for office on the same council, school board or local board, as the case may be, which in total exceeds \$5,000 in value.

(2) Subsection 148 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

88.—(1) Subsection 151 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

(2) Subsection 151 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “subject to subsection (2)” in the fourth line.

89. Subsection 152 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) Where any individual, corporation or trade union, with the knowledge and consent of a registered candidate, promotes the election of the candidate or opposes the election of any other registered candidate by advertising on the facilities of any broadcast undertaking, by publishing an advertisement in a newspaper, magazine or other periodical publication, by printing leaflets, pamphlets or other documents or by the use of any outdoor advertising facility, the cost of the advertisement shall be considered to be a contribution and, if done during the campaign period, a campaign expense of the candidate with whose knowledge and consent the political advertising was done.

90.—(1) Subsections 153 (1) and (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, are repealed and the following substituted:

(1) In this section, “fund-raising function” means events or activities held for the purposes of raising funds for the election campaign of the person by whom or on whose behalf the function is held.

(2) A funding-raising function shall only be held for a person who is registered under this Part.

(2) Subsection 153 (4) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(4) Any charge made for a fund-raising function by the sale of tickets or otherwise shall be considered a contribution.

Charges as contributions

91. Subsection 156 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(1) A contribution to a registered candidate made through an unincorporated association, including a partnership but excluding a trade union, shall be recorded by the association as to the individual sources and the amounts making up the contribution and a list of the individual sources and amounts shall be given to the chief financial officer of the registered candidate.

Group contributions

92. Section 161 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

161. Every registered candidate shall keep a record of the name and address of each contributor and the amount of each contribution whether in the form of money, goods or services received from each contributor.

Record of contributions

93.—(1) Subsection 166 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for the head of council”.

(2) Clause 166 (2) (b) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “an area municipality” at the end and substituting “one or more area municipalities”.

(3) Subsection 166 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding at the end “entitled to vote for that office”.

94.—(1) Subsection 168 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the third and fourth lines.

(2) Subsection 168 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “and shall immediately notify the Commission of the full name and address of the auditor” in the fifth and sixth lines.

95. Subclause 169 (1) (a) (iii) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

- (iii) all contributions in the form of goods or services and the values of them received by or on behalf

Political advertisements

Definition

When fund-raising function to be held

of the registered candidate during the campaign period, and

- (iv) the name, address and contribution of each individual, corporation or trade union that made one or more contributions, whether in the form of money, goods or services, if the total value of all contributions received from that contributor is more than \$100; and

96. Section 170 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsections:

(3a) In any election, a surplus is the amount by which the total of,

- (a) the contributions to the registered candidate, including contributions by the registered candidate or the spouse of the registered candidate; and
- (b) the amount released to the registered candidate under subsection (2) or (3),

exceeds the total of,

- (c) the campaign expenses of the registered candidate and the expenses incurred in holding a fund-raising function referred to in section 153; and
- (d) any deficit of the registered candidate carried forward from the immediately preceding election if the office in respect of which the deficit was produced was an office on the same council, school board or local board, as the case may be, as the office in respect of which the surplus was produced.

(3b) A deficit under clause (3a) (d) is the amount by which, in respect of that preceding election, the total of the amounts described in clauses (3a) (c) and (d) exceed the total of the amount described in clauses (3a) (a) and (b).

(3c) The amount released to the registered candidate under subsection (2) or (3) shall include the interest earned on the surplus while it was held in trust.

97.—(1) Subsection 171 (1) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by striking out “in the municipality” in the second last line.

(2) Subsection 171 (2) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(2) If a registered candidate fails to file the documents referred to in clause (1) (a) or

(b) or has exceeded the amount referred to in clause (1) (c), the Commission shall within five days of the default notify in writing the registered candidate and the council, school board or local board, as the case may be, for which the registered candidate was registered to run for office of the default and any office to which the registered candidate was elected shall be deemed vacant and the registered candidate shall forfeit the office.

(3) Subsection 171 (3) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed.

98. Section 172 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

172.—(1) Where the financial statement of a registered candidate who is not declared elected shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required by section 170, the candidate, in addition to any other penalty, is ineligible to be nominated for or elected to any office or to hold any office for a period up to and including the next regular election, unless the candidate or the chief financial officer has paid over the surplus to the clerk.

(2) If the financial statement of a registered candidate shows a surplus and the chief financial officer of the candidate fails to pay over the surplus to the clerk as required under section 170, the Commission shall notify in writing the candidate and the council, school board or local board, as the case may be, for which the candidate was registered to run for office of the default and any office to which the candidate was elected shall be immediately declared vacant.

(3) The declaring of an office vacant does not relieve the candidate from any other penalty that may be imposed under this Act.

99. Subsection 173 (5) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is repealed and the following substituted:

(5) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election for the office of chairman or member of the council of a regional municipality and the member if elected would not be a member of council of an area municipality, the clerk shall recover the amount of the tax credit provided to any contributor under subsection (3) or (4) from the regional municipality by billing the regional municipality for that amount.

Surplus

Deficit

Interest

Forfeiture of office

Ineligibility

Office declared vacant

Penalties unaffected by vacancy

Recovery of tax credit

Idem

(5a) If the contribution upon which the application for a tax credit under subsection (1) is based was made to a registered candidate in an election in which the registered candidate, if elected, would be a member of the council of a regional municipality and of an area municipality, the clerk shall recover from the regional municipality,

- (a) where only the council of the regional municipality has adopted this Part, the amount of the tax credit provided to any contributor under subsection (3) or (4); and
- (b) where the councils of the regional municipality and the area municipality have adopted this Part, one-half the amount of the tax credit provided to any contributor under subsection (3) or (4).

100. Section 176 of the Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 12, is amended by adding the following subsection:

(2) The Commission shall provide such guidelines for the proper administration of this Part as it considers necessary for the guidance of clerks.

101. Subsection 38 (1a) of the *Municipal Act*, as enacted by the Statutes of Ontario, 1988, chapter 33, section 14, is repealed and the following substituted:

(1a) A member of council of a municipality is disqualified from holding office if, at any time during the term of office of that member, he or she,

- (a) ceases to be a Canadian citizen;
- (b) is not a resident in the municipality, the owner or tenant of land in the municipality or the spouse of an owner or tenant in the municipality; or
- (c) would be prohibited under this or any other Act from voting in an election for the office of member of council of the municipality if an election was held at that time.

(1b) In subsection (1a), "owner or tenant", "resident" and "spouse" have the same meaning as in the *Municipal Elections Act*.

102. Paragraph 1 of Form 2 of the *District Municipality of Muskoka Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

103. Forms 1 and 2 of the *Municipality of Metropolitan Toronto Act* are repealed.

104. Paragraph 1 of Form 2 of the *County of Oxford Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

105. Paragraph 1 of Form 2 of the *Regional Municipality of Durham Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

106. Paragraph 1 of Form 2 of the *Regional Municipality of Haldimand-Norfolk Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

107. Paragraph 1 of Form 2 of the *Regional Municipality of Halton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

108. Paragraph 1 of Form 2 of the *Regional Municipality of Hamilton-Wentworth Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

109. Paragraph 1 of Form 2 of the *Regional Municipality of Niagara Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

110. Paragraph 1 of Form 2 of the *Regional Municipality of Ottawa-Carleton Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

111. Paragraph 1 of Form 2 of the *Regional Municipality of Peel Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

112. Paragraph 1 of Form 2 of the *Regional Municipality of Sudbury Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

113. Paragraph 1 of Form 2 of the *Regional Municipality of Waterloo Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

114. Paragraph 1 of Form 2 of the *Regional Municipality of York Act* is repealed and the following substituted:

- 1. I am a Canadian citizen.

115. This Act comes into force on the 1st day of January, 1991.

116. The short title of this Act is the *Municipal Elections Statute Law Amendment Act, 1990*.

Commence-
ment

Short title

Guidelines

Disqualifi-
cation

Definitions

Bill 17

Government Bill

Projet de loi 17

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

Projet de loi 17

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

The Hon. H. Hampton
Attorney General

L'honorable H. Hampton
Procureur général



1st Reading December 5th, 1990
2nd Reading
3rd Reading
Royal Assent

1^{re} lecture 5 décembre 1990
2^e lecture
3^e lecture
sanction royale

*This Bill has been reprinted to conform to the new
printing format*

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EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 12 of the Bill will be renamed the *Child and Family Support Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the Child and Family Support Office of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3a of the Act, as set out in section 3 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3k of the Act, as set out in section 3 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "debtor") will be required to deduct up to 50 per cent of each periodic payment owed to the debtor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3c of the Act as set out in section 3 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the debtor posts security. (Proposed sections 3c and 3d of the Act as set out in section 3 of the Bill)
5. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3e and 3f of the Act, as set out in section 3 of the Bill)
6. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. (Proposed section 3g of the Act, as set out in section 3 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution des ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 12 du projet de loi, reçoit le nouveau titre *Loi de 1985 sur les obligations alimentaires*. Il modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du Bureau des obligations alimentaires. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3a proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi) Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3k proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
3. La personne qui fait des versements périodiques (la «source de revenu») à la personne qui doit verser des aliments (le «débiteur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au débiteur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3c proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance était déraisonnable ou que les parties s'entendent et que le débiteur fournit une sûreté. (Articles 3c et 3d proposés de la Loi, tels qu'ils sont énoncés à l'article 3 du projet de loi)
5. L'ordonnance de retenue des aliments à l'égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3e et 3f proposés de la Loi, tels qu'ils sont énoncés à l'article 3 du projet de loi)
6. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a eu un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. (Article 3g proposé de la Loi, tel qu'il est énoncé à l'article 3 du projet de loi)

7. A debtor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The debtor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3i of the Act, as set out in section 3 of the Bill)

8. New procedures are provided for obtaining financial statements from debtors. (Proposed section 3j of the Act, as set out in section 3 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of “custody order” and “support order” and to change the title of the Director to “Director of the Child and Family Support Office”. (Subsections 1 (1) and (2) and section 2 of the Bill)

10. To add definitions of “debtor”, “Director’s office”, “income source”, “regulations” and “support deduction order”. (Subsection 1 (3) of the Bill)

11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 3 of the Bill)

12. To clarify that the Director is not a party to any proceeding to determine entitlement under support order. (Proposed section 3h of the Act, as set out in section 3 of the Bill)

13. To improve enforcement of support orders by requiring debtors to advise the Director’s office of address changes. (Proposed section 3L of the Act, as set out in section 3 of the Bill)

14. To clarify the circumstances under which a support order filed in the Director’s office by the Minister of Community and Social Services may be withdrawn. (Section 4 of the Bill)

15. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 5 of the Bill)

16. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 6 (1) of the Bill)

17. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 6 (2) and (3) and section 7 of the Bill)

18. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10a of the Act as set out in section 8 of the Bill)

19. To strengthen the default hearing procedure. (Section 9 of the Bill)

20. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12a and 12b of the Act, as set out in section 10 of the Bill)

7. Le débiteur pourra contester la somme retenue aux termes d’une ordonnance de retenue des aliments s’il croit qu’une erreur a été commise et il pourra contester le fait qu’une ordonnance de suspension a été révoquée de façon appropriée ou non. Le débiteur peut également demander un redressement à l’égard du paiement d’un arriéré exigible aux termes d’une ordonnance de retenue des aliments. (Article 3i proposé de la Loi, tel qu’il est énoncé à l’article 3 du projet de loi)

8. De nouvelles procédures sont prévues afin d’obtenir des états financiers des débiteurs. (Article 3j proposé de la Loi, tel qu’il est énoncé à l’article 3 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d’enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Bureau des obligations alimentaires». (Paragraphe 1 (1) et (2) et l’article 2 du projet de loi)

10. Ajouter la définition de «bureau du directeur», «débiteur», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 1 (3) du projet de loi)

11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d’enfants. (Article 3 proposé de la Loi, tel qu’il est énoncé à l’article 3 du projet de loi)

12. Préciser que le directeur n’est pas une partie aux instances visant à déterminer un droit aux termes d’une ordonnance alimentaire. (Article 3h proposé de la Loi, tel qu’il est énoncé à l’article 3 du projet de loi)

13. Améliorer l’exécution des ordonnances alimentaires en exigeant des débiteurs qu’ils avisent le bureau du directeur des changements d’adresse. (Article 3L proposé de la Loi, tel qu’il est énoncé à l’article 3 du projet de loi)

14. Clarifier les circonstances dans lesquelles une ordonnance alimentaire déposée au bureau du directeur par le ministre des Services sociaux et communautaires peut être retirée. (Article 4 du projet de loi)

15. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d’enfants en tant qu’article distinct. (Article 5 du projet de loi)

16. Permettre l’échange de renseignements avec les fonctionnaires d’autres compétences qui sont chargés de l’exécution des ordonnances alimentaires et de garde d’enfants. (Paragraphe 6 (1) du projet de loi)

17. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l’accès à l’information et la protection de la vie privée*. (Paragraphe 6 (2) et (3) et article 7 du projet de loi)

18. Permettre l’emploi efficace des brefs de saisie-exécution pour l’exécution des ordonnances alimentaires. (Article 10a proposé de la Loi, tel qu’il est énoncé à l’article 8 du projet de loi)

19. Consolider la procédure d’audience sur le défaut. (Article 9 du projet de loi)

20. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d’application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d’un tribunal et donner à la Cour de l’Ontario (Division provinciale) le pouvoir d’interdire l’aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12a et 12b proposés de la Loi, tels qu’ils sont énoncés à l’article 10 du projet de loi)

21. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13a of the Act, as set out in section 11 of the Bill)
22. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13b of the Act, as set out in section 11 of the Bill)
23. To rename the Act as the *Child and Family Support Act, 1985*. (Section 12 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendment ensures that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

It also empowers an employment standards officer to order the reinstatement of the employee, where appropriate.

21. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13a proposé de la Loi, tel qu'il est énoncé à l'article 11 du projet de loi)
22. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13b proposé de la Loi, tel qu'il est énoncé à l'article 11 du projet de loi)
23. Remplacer le titre de la Loi par *Loi de 1985 sur les obligations alimentaires*. (Article 12 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

La modification fait en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elle permet également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

*Support and Custody Orders Enforcement Act,
1985*

1.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the *Support and Custody Orders Enforcement Act, 1985* are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Child and Family Support Office. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“debtor” means a person who is required to pay support under a support order; (“débiteur”)

“Director’s office” means the Child and Family Support Office. (“bureau du directeur”)

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Bureau des obligations alimentaires. («Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par l’adjonction des définitions suivantes :

«bureau du directeur» Le Bureau des obligations alimentaires. («Director’s Office»)

«débiteur» Personne qui est tenue de verser des aliments aux termes d’une ordonnance alimentaire. («debtor»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l’ordonnance

“income source” means an individual, a corporation or other entity that owes periodic payment to a debtor of,

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the debtor should the debtor fail to earn the commission or bonus or fails to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; (“source de revenu”)

“regulations” means the regulations made under this Act; (“règlements”)

“support deduction order” means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the debtor named in the order out of money owed by the income source to the debtor. (“ordonnance de retenue des aliments”)

2. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Child and Family Support Office who shall be appointed by the Lieutenant Governor in Council.

3. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

(2) An order may be filed even if it has been previously withdrawn.

(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the debtor.

(4) A custody order may only be filed by a person entitled to custody under it.

(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall

de faire des versements au directeur, prélevés sur l'argent qu'elle doit au débiteur, à l'égard du débiteur nommé dans l'ordonnance. («support deduction order»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou tout autre entité qui doit faire des versements périodiques à un débiteur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du débiteur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

2 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Bureau des obligations alimentaires.

3 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.

(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le débiteur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.

(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.

(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont

Director of the Child and Family Support Office

Filing of orders

Idem

Who may file

Idem

Director to enforce support orders

Directeur du Bureau des obligations alimentaires

Dépôt des ordonnances

Idem

Personnes pouvant déposer une ordonnance

Idem

Exécution des ordonnances alimentaires par le directeur

pay them to the person to whom they are owed.

Prompt filing

(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.

Filing orders of other jurisdictions

(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.

Filing by Minister

(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act*, the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.

Filing of past orders

(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.

Support deduction order

3a. An Ontario court that makes a support order, other than a provisional order, shall also make a support deduction order in respect of the debtor under the support order.

Form of support deduction order

3b.—(1) A support deduction order shall be in the form prescribed by the regulations.

Completion of form

(2) The support deduction order shall be completed by the court and signed at the time the support order is made even though the support order may not have been settled or signed at that time.

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

versées au directeur, qui les verse à la personne à qui elles sont dues.

(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.

(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.

(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la *Loi sur les prestations familiales* ou une aide en vertu de la *Loi sur l'aide sociale générale*, y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.

(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée *Family Law Reform Act*, qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.

3a Le tribunal de l'Ontario qui rend une ordonnance alimentaire, autre qu'une ordonnance conditionnelle, rend également une ordonnance de retenue des aliments à l'égard du débiteur aux termes de l'ordonnance alimentaire.

3b (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

(2) L'ordonnance de retenue des aliments est remplie par le tribunal et signée au moment où est rendue l'ordonnance alimentaire, même si celle-ci peut ne pas avoir été réglée ou signée à ce moment-là.

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

Dépôt des ordonnances rendues dans d'autres compétences

Dépôt par le ministre

Dépôts d'ordonnances antérieures

Ordonnance de retenue des aliments

Formule de l'ordonnance de retenue des aliments

Rédaction de la formule

Dépôt rapide

Persons
bound

3c.—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.

Director to
enforce
support
deduction
orders

(2) Unless the operation of a support deduction order has been suspended by the court that made it, it shall be enforced by the Director, in the manner, if any, that appears practical to the Director, and the amounts collected by the Director under an order shall be paid by the Director to the person to whom they are owed.

Idem

(3) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(4) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing unless the contrary is shown.

Idem

(5) The notice shall state the name of the debtor and the amount required to be deducted and paid to the Director's office.

Arrears

(6) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under the support order but the amount deducted for arrears shall not exceed 50 per cent of the amount that is payable on a periodic basis under the support order.

When
payments
begin

(7) An income source shall begin making payments to the Director's office not later than the later of fourteen days after the income source is served with the notice and the day the first payment is to be paid to the debtor after the income source is served with the notice.

Maximum
payment

(8) Subject to subsections (9) and (10), an income source shall pay to the Director's office the lesser of,

- (a) the amount claimed in the notice; and
- (b) 50 per cent of the net amount owed by the income source to the debtor at the time each payment is to be made to the Director's office, which net amount shall be calculated in accordance with the following formula:

Net amount = T - S

Where

3c (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.

Personnes
liées

(2) Sauf si l'application de l'ordonnance de retenue des aliments a été suspendue par le tribunal qui a rendu cette dernière, l'ordonnance est exécutée par le directeur, de la façon, s'il en est, qui lui semble pratique. Les sommes perçues par le directeur en vertu de l'ordonnance sont versées par celui-ci à la personne à qui elles sont dues.

Exécution des
ordonnances
de retenue
des aliments
par le direc-
teur

(3) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

(4) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste.

Idem

(5) L'avis mentionne le nom du débiteur et la somme qui doit être retenue et versée au bureau du directeur.

Idem

(6) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes de l'ordonnance alimentaire. La somme retenue à titre d'arriéré ne doit toutefois pas dépasser 50 pour cent de la somme à payer périodiquement aux termes de l'ordonnance alimentaire.

Arriéré

(7) La source de revenu commence à faire des versements au bureau du directeur au plus tard, soit quatorze jours après que la signification de l'avis lui est faite, soit le jour où le premier versement doit être fait au débiteur après que la source de revenu a reçu signification de l'avis, selon l'éventualité qui est postérieure à l'autre.

Commence-
ment des ver-
sements

(8) Sous réserve des paragraphes (9) et (10), la source de revenu verse au bureau du directeur la moins élevée des sommes suivantes :

Versement
maximal

- a) la somme demandée dans l'avis;
- b) 50 pour cent du montant net que la source de revenu doit au débiteur au moment où chaque versement doit être fait au bureau du directeur, lequel montant net est calculé selon la formule suivante :

Montant net = T - S

Où

T = the total amount owed by the income source to the debtor at the time payment is to be made to the Director's office

S = the total of all deductions required to be made from T under any statute.

T = le montant total que la source de revenu doit au débiteur au moment où le versement doit être fait au bureau du directeur

S = le montant total de toutes les retenues qui doivent être faites sur T aux termes de toute loi.

Idem (9) Subject to subsection (10), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources named in the order pay an amount that is higher than the amount described in clause (8) (b) and such an income source shall pay to the Director's office the amount set out in the order.

Idem (9) Sous réserve du paragraphe (10), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou à la suite d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu nommées dans l'ordonnance paient une somme plus élevée que la somme prévue à l'alinéa (8) b) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Idem (10) An income source is not required to pay to the Director's office more than the income source owes to the debtor at the time of the payment.

Idem (10) Une source de revenu n'est pas obligée de verser au bureau du directeur une somme plus élevée que celle qu'elle doit au débiteur au moment du versement.

Person not income source (11) If an individual, corporation or other entity served with notice is not an income source of the debtor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

Personne qui n'est pas une source de revenu (11) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du débiteur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Dispute (12) If the Director disagrees with an income source as to the amount being deducted and paid to the Director's office or, as to whether an individual, corporation or other entity is an income source or if an income source has failed to comply with a support deduction order, the Director, on notice to the income source, individual, corporation or other entity, may bring a motion in the Ontario Court (Provincial Division) or the Unified Family Court to determine the issue and the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Conflit (12) Si le directeur ne s'entend pas avec la source de revenu quant à la somme retenue et versée au bureau du directeur ou quant à la question de savoir si une personne, physique ou morale, ou une autre entité est une source de revenu ou si la source de revenu n'a pas observé l'ordonnance de retenue des aliments, le directeur peut, sur avis à la source de revenu ou à une personne, physique ou morale, ou une autre entité, présenter une motion devant la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, qui procède de façon sommaire afin de régler la question et qui rend l'ordonnance qu'elle estime opportune dans les circonstances.

Liability (13) An income source is personally liable for paying to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and in a motion under subsection (12) the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

Responsabilité (13) La source de revenu est personnellement responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur présentation d'une motion prévue au paragraphe (12), le tribunal peut ordonner à la source de revenu de verser la somme qui aurait dû être retenue et versée au bureau du directeur.

Enforceability (14) In addition to any other method available to enforce an order in a civil proceeding, a support deduction order and any order made under subsection (12) or (13)

Exécution (14) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, l'ordonnance de retenue des aliments et les ordonnances rendues aux termes

may be enforced under this Act in the same manner and with the same remedies as a support order.

Duty to
inform

(15) Within ten days following the termination or beginning of an interruption of payments by an income source to a debtor, both the income source and the debtor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

Idem

(16) If notice has been or should have been given under subsection (15),

- (a) the debtor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;
- (b) the debtor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

Information
confidential

(17) Information about a debtor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

Priority

(18) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

Idem

(19) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order before making any other payment in respect of the garnishment.

Conflict with
other Acts

(20) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other pro-

du paragraphe (12) ou (13) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

Obligation
d'informer

(15) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au débiteur, la source de revenu et le débiteur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Idem

(16) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (15) :

- a) le débiteur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;
- b) le débiteur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Renseigne-
ments confi-
dentiels

(17) Les renseignements sur le débiteur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Priorité

(18) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Idem

(19) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrest relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments avant de faire tout autre versement à l'égard de la saisie-arrest.

Incompati-
bilité avec
d'autres lois

(20) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou

cess for the enforcement of a judgment debt any periodic payment owed by an income source to a debtor.

Welfare benefits

(21) A support deduction order shall not be used to make deductions from any amount payable to a debtor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

Immediate suspension of support deduction order

3d.—(1) A court that makes a support deduction order may immediately suspend its operation.

Subsequent suspension

(2) A court that made a support deduction order may, on motion, suspend its operation if it is satisfied that there has been a material change in the circumstances of any of the parties since the order was first made.

Conditions for granting suspension

(3) The court may suspend a support deduction order under subsection (1) or (2) or subsection 3k (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the debtor to make support payments through a support deduction order; or
- (b) it determines that the parties to the support order have agreed that they do not want support payments collected through a support deduction order.

Idem

(4) The court shall not make an order under clause (3) (b) unless in its order it requires the debtor to post such security as it considers adequate and as provided in the regulations.

Completion of form

(5) A suspension order shall be completed by the court and signed at the time it is made.

Prompt filing

(6) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

Form and effective date

(7) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

Termination of suspension order

(8) A suspension order is automatically terminated if the debtor fails to post security of the type or within the time period set out in the suspension order or if the debtor fails to comply with the support order.

d'un autre acte de procédure visant l'exécution d'une dette constatée par jugement tout versement périodique que doit la source de revenu au débiteur.

(21) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un débiteur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

3d (1) Le tribunal qui rend une ordonnance de retenue des aliments peut en suspendre immédiatement l'application.

(2) Le tribunal qui a rendu une ordonnance de retenue des aliments peut, sur présentation d'une motion, suspendre l'application de celle-ci s'il est convaincu qu'il y a eu un changement important de la situation d'une des parties depuis que l'ordonnance a été rendue.

(3) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou (2) ou du paragraphe 3k (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le débiteur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) il établit que les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments.

(4) Le tribunal ne doit pas rendre d'ordonnance en vertu de l'alinéa (3) b), sauf s'il exige dans celle-ci que le débiteur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

(5) L'ordonnance de suspension est remplie par le tribunal et signée au moment où elle est rendue.

(6) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

(7) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

(8) L'ordonnance de suspension est automatiquement révoquée si le débiteur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le débiteur ne se conforme pas à l'ordonnance alimentaire.

Prestations d'aide sociale

Suspension immédiate de l'ordonnance de retenue des aliments
Suspension subséquente

Conditions nécessaires à l'approbation d'une suspension

Idem

Rédaction de la formule

Dépôt rapide

Formule et entrée en vigueur

Révocation de l'ordonnance de suspension

Effect of termination	(9) When a suspension order is terminated under subsection (8), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.	(9) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (8), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.	Effet de la révocation
Variation of support deduction order	3e. —(1) Despite any other provision of this Act, when a court varies a support order it may vary the amount to be paid under a support deduction order by such amount as it considers appropriate to enforce the support order.	3e (1) Malgré toute autre disposition de la présente loi, lorsqu'il modifie l'ordonnance alimentaire, le tribunal peut modifier le montant à verser aux termes de l'ordonnance de retenue des aliments par un montant qu'il estime juste afin d'exécuter l'ordonnance alimentaire.	Modification de l'ordonnance de retenue des aliments
Interim order	(2) A court to which an application to vary a support order has been made may make an interim order varying a support deduction order.	(2) Le tribunal devant lequel une requête visant à modifier l'ordonnance alimentaire a été présentée peut rendre une ordonnance provisoire modifiant l'ordonnance de retenue des aliments.	Ordonnance provisoire
No opting out	3f. An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.	3f L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.	Obligation de se conformer à l'ordonnance de retenue des aliments
Termination of support order	3g. —(1) The Director shall continue to enforce a support order filed in the Director's office until he or she is satisfied that the support order is terminated or until it is withdrawn from the Director's office, whichever occurs first.	3g (1) Le directeur continue d'exécuter l'ordonnance alimentaire déposée à son bureau jusqu'à ce qu'il soit convaincu que celle-ci a pris fin ou jusqu'à ce qu'elle soit retirée du bureau du directeur, l'éventualité qui se présente la première étant retenue.	Fin de l'ordonnance alimentaire
Support deduction order	(2) The Director shall continue to enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and despite the fact that the support order to which it relates has been withdrawn from the Director's office.	(2) Le directeur continue d'exécuter l'ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait pris fin l'ordonnance alimentaire à laquelle elle se rapporte et en dépit du fait que l'ordonnance alimentaire a été retirée du bureau du directeur.	Ordonnance de retenue des aliments
Procedures on termination	(3) Notice of the termination of a support obligation under a support order filed in the Director's office or under a support deduction order where the support order has been withdrawn shall be given to the Director in the manner and by the persons prescribed by the regulations.	(3) Un avis de la fin de l'obligation alimentaire prévue par l'ordonnance alimentaire déposée au bureau du directeur ou par l'ordonnance de retenue des aliments si l'ordonnance alimentaire a été retirée est donné au directeur de la façon et par les personnes prescrites par les règlements.	Procédure à la fin de l'obligation alimentaire
Mutual agreement	(4) If the parties to a support order agree, in the manner prescribed by the regulations, the Director shall cease enforcement of a support obligation that has terminated.	(4) Si les parties à une ordonnance alimentaire s'entendent, de la façon prescrite par les règlements, le directeur cesse d'exécuter une obligation alimentaire qui a pris fin.	Accord mutuel
Disputes	(5) If the parties to a support order do not agree, the court that made a support order shall on the motion of a party to the order decide if a support obligation has terminated.	(5) Si les parties à une ordonnance alimentaire ne s'entendent pas, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance, si l'obligation alimentaire a pris fin.	Conflits
Continued enforcement	(6) The Director shall continue enforcement until he or she receives a copy of the court's decision.	(6) Le directeur continue d'exécuter l'ordonnance jusqu'à ce qu'il reçoive une copie de la décision du tribunal.	L'exécution continue

Parties	(7) The parties to the support order are the parties to a motion under this section.	(7) Les parties à l'ordonnance alimentaire sont les parties à une motion prévue au présent article.	Parties
Director not party	3h. The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order.	3h Le directeur n'est pas une partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire.	Le directeur n'est pas une partie
Disputes, etc., by debtor	3i. —(1) A debtor, on motion in the Ontario Court (Provincial Division) or the Unified Family Court, (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act; (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3d; (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.	3i (1) Le débiteur, qui présente une motion devant la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, peut : a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue; b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3d; c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.	Contestations du débiteur
Power of court	(2) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.	(2) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.	Pouvoir du tribunal
Idem	(3) On a motion under clause (1) (c), the debtor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the debtor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.	(3) À la présentation d'une motion en vertu de l'alinéa (1) c), le débiteur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le débiteur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.	Idem
Financial statements	3j. —(1) The Director may require a debtor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.	3j (1) Le directeur peut exiger que le débiteur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.	États financiers
Idem	(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the debtor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.	(2) Le directeur peut demander que soit rempli l'état financier en envoyant au débiteur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du débiteur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.	Idem

Idem	(3) The request shall be deemed to have been served on the debtor on the fifth day following mailing unless the contrary is shown.	(3) La demande est réputée avoir été signifiée au débiteur le cinquième jour qui suit la mise à la poste, à moins qu'il ne soit démontré le contraire.	Idem
Idem	(4) The debtor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.	(4) Le débiteur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.	Idem
Changes in information	(5) If a debtor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.	(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le débiteur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.	Changements relatifs aux renseignements
Failure to comply	(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a debtor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.	(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au débiteur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.	Défaut de se conformer
Limitation	(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.	(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.	Restriction
Old orders, domestic contracts, paternity agreements	3k. —(1) This section applies only to support orders filed with the Director's office that are, (a) support orders made by an Ontario court before this section comes into force; (b) domestic contracts and paternity agreements that are enforceable under section 35 of the <i>Family Law Act</i> , 1986.	3k (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont : a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article; b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la <i>Loi de 1986 sur le droit de la famille</i> .	Anciennes ordonnances, anciens contrats familiaux et accords de paternité
Enforcement	(2) The Director may enforce payments under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall do so if the recipient requests enforcement under this section and the Director considers it practical to do so.	(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire et il le fait si le bénéficiaire en demande l'exécution en vertu du présent article et que le directeur estime qu'il est pratique de le faire.	Exécution
Notice	(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the debtor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.	(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le débiteur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du débiteur indiquée dans les dossiers du bureau du directeur.	Avis
Idem	(4) A notice given by mail shall be deemed to have been served on the debtor on the fifth day following mailing unless the contrary is shown.	(4) L'avis envoyé par courrier est réputé avoir été signifié au débiteur le cinquième jour qui suit la mise à la poste, sauf s'il est démontré le contraire.	Idem
Deemed support deduction order	(5) A support deduction order shall be deemed to have been made by the appropri-	(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal	Ordonnance de retenue des aliments réputée rendue

ate court thirty days after the notice is served on the debtor.

Suspension

(6) The debtor may, on motion under section 3d to the appropriate court within thirty days of being served with the notice, obtain a suspension of the operation of a support deduction order described in subsection (5).

Delay of enforcement

(7) A support deduction order described in subsection (5) does not come into force until a motion under subsection (6) has been determined.

No form required

(8) Section 3b does not apply to an order described in subsection (5).

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

Duty to advise on address change

3L. If a debtor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

4. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

Withdrawal not permitted

(2) Despite subsection (1), a support order filed by the Minister of Community and Social Services may not be withdrawn except by the Minister or except with the Minister's consent if the support order is under assignment to the Ministry of Community and Social Services or there are arrears owing to that Ministry from a past assignment.

5. The Act is amended by renumbering subsection 4 (4) as section 4a.

6.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

Access to information

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(aa) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

approprié trente jours après que l'avis est signifié au débiteur.

(6) Le débiteur peut, sur présentation d'une motion devant le tribunal approprié, aux termes de l'article 3d, et dans les trente jours après que l'avis lui est signifié, obtenir que soit suspendue l'application de l'ordonnance de retenue des aliments visée au paragraphe (5).

(7) L'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion prévue au paragraphe (6) n'a pas été prise.

(8) L'article 3b ne s'applique pas à l'ordonnance visée au paragraphe (5).

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

3L Si le débiteur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

4 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) Malgré le paragraphe (1), l'ordonnance alimentaire déposée par le ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement si l'ordonnance alimentaire est cédée au ministère des Services sociaux et communautaires ou qu'un arriéré provenant d'une cession antérieure est dû à ce ministère.

5 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4a.

6 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

(2) Le paragraphe 6 (2) de la Loi est modifié par l'adjonction de l'alinéa suivant :

aa) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Le paragraphe 6 (5) de la Loi est modifié par l'adjonction de l'alinéa suivant :

Suspension

Retard de l'exécution

Aucune formule exigée

Tribunal approprié

Changement d'adresse

Retrait non autorisé

Accès aux renseignements

(aa) as permitted by the *Freedom of Information and Protection of Privacy Act*, 1987.

7. Subsection 7 (2) of the Act is repealed and the following substituted:

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act* (Canada) for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or
- (b) as permitted by the *Freedom of Information and Protection of Privacy Act*, 1987.

8. The Act is further amended by adding the following section:

10a.—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall, not later than two days after receiving the request, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1) and shall not remove the writ from his or her file until,

- (a) a statutory declaration has been filed and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or
- (b) the writ has been fully satisfied and ten days have elapsed after the sheriff gave notice under this subsection.

aa) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

7 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales* (Canada) en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;
- b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8 La Loi est modifiée de nouveau par l'adjonction de l'article suivant :

10a (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise, au plus tard deux jours après réception de la demande, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1) et le shérif ne doit pas enlever le bref de son dossier tant que, selon le cas :

- a) une déclaration solennelle n'a pas été déposée et que le bref, tel qu'il est réputé modifié en vertu du paragraphe (2), n'a pas été complètement exécuté;
- b) le bref n'a pas été complètement exécuté et que dix jours ne se sont pas écoulés après que le shérif a donné un

Information
obtained
from federal
government

Notice to
sheriff of
amount
owing

Effect of
statutory
declaration

Notice from
sheriff of
opportunity
to give statu-
tory declara-
tion

Removal of
writ from
sheriff's file

Renseigne-
ments obte-
nus du gou-
vernement
fédéral

Avis au shérif
concernant la
somme due

Effet de la
déclaration
solennelle

Avis du shérif
concernant la
déclaration
solennelle

Enlèvement
d'un bref du
dossier du
shérif

Manner of giving notice

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

9.—(1) Subsection 11 (6) of the Act is amended by striking out “that there are no arrears or” in the first and second lines.

(2) Clause 11 (6) (a) of the Act is repealed and the following substituted:

- (a) pay all or part of the arrears by such periodic payments as the court considers just but an order for partial payment does not discharge any unpaid arrears.

(3) Section 11 of the Act is amended by adding the following subsection:

(6a) The court may make an interim order against the debtor that includes any order that may be made under subsection (6).

Interim orders

10. Section 12 of the Act is repealed and the following substituted:

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Restraining order

12a.—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Contempt

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Conditions of imprisonment

12b. A person who knowingly contravenes subsection 3c (7), (11), (15), (16) or (17), subsection 3j (4) or (5) or section 3k is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offences

avis aux termes du présent paragraphe.

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

Façon de donner l'avis

9 (1) Le paragraphe 11 (6) de la Loi est modifié par la suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(2) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) enjoindre au débiteur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(3) L'article 11 de la Loi est modifié par l'adjonction du paragraphe suivant :

(6a) Le tribunal peut rendre une ordonnance provisoire contre le débiteur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances provisoires

10 L'article 12 de la Loi est modifié et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance de ne pas faire

12a (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonnement

12b Quiconque contrevient sciemment au paragraphe 3c (7), (11), (15), (16) ou (17), au paragraphe 3j (4) ou (5) ou à l'article 3k est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

11. The Act is further amended by adding the following sections:

Enforcement
alternatives

13a. Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Regulations

13b. The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;
- (c) prescribing types of income for the purposes of clause (f) of the definition of income source in subsection 1 (1);
- (d) prescribing information that shall be supplied under subsection 3c (15);
- (e) governing the posting of security by a debtor for the purposes of a suspension order under clause 3d (3) (b) and the realization thereon;
- (f) respecting proof of income for the purposes of section 3i.

12. Section 18 of the Act is repealed and the following substituted:

Short title

18. The short title of this Act is the *Child and Family Support Act, 1985*.

PART II

Employment Standards Act

13. Section 9 of the *Employment Standards Act* is repealed.

14. The Act is amended by adding the following Part:

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee;
or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to

11 La Loi est modifiée de nouveau par l'adjonction des articles suivants :

13a L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres
moyens
employés
pour l'exécution

13b Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;
- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la source de revenu au paragraphe 1 (1);
- d) prescrire les renseignements qui sont fournis aux termes du paragraphe 3c (15);
- e) régir la façon de fournir une sûreté par le débiteur aux fins de l'ordonnance de suspension visée par l'alinéa 3d (3) b) et la réalisation de cette sûreté;
- f) traiter des preuves relatives au revenu aux fins de l'article 3i.

12 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la Loi est *Loi de 1985 sur les obligations alimentaires*.

Titre abrégé

PARTIE II

Loi sur les normes d'emploi

13 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

14 La Loi est modifiée par l'adjonction de la partie suivante :

pay to a third party any amount owing by the employer to the employee.

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

15. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after “39f” in the amendment of 1988 “39m”.

16. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after “39f” in the amendment of 1988 “39m”.

PART III

Commencement, Short Title

Commence-
ment

17. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

18. The short title of this Act is the *Child and Family Support Statute Law Amendment Act, 1990*.

15 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

16 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PARTIE III


Entrée en vigueur et titre abrégé

17 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

18 Le titre abrégé de la présente loi est *Loi de 1990 modifiant les lois relatives aux obligations alimentaires*.

Titre abrégé

Bill 17	Government Bill	Projet de loi 17	du gouvernement
1ST SESSION, 35TH LEGISLATURE, ONTARIO 39 ELIZABETH II, 1990		1 ^{re} SESSION, 35 ^e LÉGISLATURE, ONTARIO 39 ELIZABETH II, 1990	
Bill 17		Projet de loi 17	
An Act to amend the Law related to the Enforcement of Support and Custody Orders		Loi portant modification des lois relatives à l'exécution d'ordonnances alimentaires et de garde d'enfants	
The Hon. H. Hampton Attorney General		L'honorable H. Hampton Procureur général	
			
1st Reading December 5th, 1990		1 ^{re} lecture 5 décembre 1990	
2nd Reading December 18th, 1990		2 ^e lecture 18 décembre 1990	
3rd Reading		3 ^e lecture	
Royal Assent		sanction royale	
<i>(Reprinted as amended by the Administration of Justice Committee)</i>		<i>(Réimprimé tel qu'il est modifié par le Comité de l'administration de la justice)</i>	
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EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 13 of the Bill will be renamed the *Family Support Plan Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the Child and Family Support Office of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3.1 of the Act, as set out in section 4 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3.8 of the Act, as set out in section 4 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "payor") will be required to deduct up to 50 per cent of each periodic payment owed to the payor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3.3 of the Act, as set out in section 4 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the payor posts security. (Proposed sections 3.3 and 3.4 of the Act, as set out in section 4 of the Bill)
5. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. (Proposed sections 3.3 and 3.9 of the Act, as set out in section 4 of the Bill)
6. A payor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The payor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3.5 of the Act, as set out in section 4 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution des ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 13 du projet de loi, reçoit le nouveau titre *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. Il modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du Bureau des obligations alimentaires. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3.1 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi). Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3.8 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
3. La personne qui fait des versements périodiques (la «source de revenu») à la personne qui doit verser des aliments (le «payeur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au payeur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3.3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance était déraisonnable ou que les parties s'entendent et que le payeur fournit une sûreté. (Articles 3.3 et 3.4 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
5. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a eu un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. (Articles 3.3 et 3.9 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
6. Le payeur pourra contester la somme retenue aux termes d'une ordonnance de retenue des aliments s'il croit qu'une erreur a été commise et il pourra contester le fait qu'une ordonnance de suspension a été révoquée de façon appropriée ou non. Le payeur peut également demander un redressement à l'égard du paiement d'un arriéré exigible aux termes d'une ordonnance de retenue des aliments. (Article 3.5 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)

7. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3.6 and 3.7 of the Act, as set out in section 4 of the Bill)
8. New procedures are provided for obtaining financial statements from payors. (Proposed section 3.10 of the Act, as set out in section 4 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of “custody order” and “support order” and to change the title of the Director to “Director of the Child and Family Support Office”. (Subsections 2 (1) and (2) and section 3 of the Bill)
10. To add definitions of “payor”, “Director’s office”, “income source”, “provisional order”, “regulations” and “support deduction order”. (Subsection 2 (3) of the Bill)
11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 4 of the Bill)
12. To clarify that the Director is not a party to any proceeding to determine entitlement under a support order. (Proposed subsection 3.9 (11) of the Act, as set out in section 4 of the Bill)
13. To improve enforcement of support orders by requiring payors to advise the Director’s office of address changes. (Proposed section 3.12 of the Act, as set out in section 4 of the Bill)
14. To clarify the circumstances under which a support order filed in the Director’s office by the Minister of Community and Social Services may be withdrawn. (Section 5 of the Bill)
15. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 6 of the Bill)
16. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 7 (1) of the Bill)
17. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 7 (2) and (3) and section 8 of the Bill)
18. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10.1 of the Act, as set out in section 9 of the Bill)
19. To strengthen the default hearing procedure. (Section 10 of the Bill)
20. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12.1 and 12.2 of the Act, as set out in section 11 of the Bill)

7. L’ordonnance de retenue des aliments à l’égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l’ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3.6 et 3.7 proposés de la Loi, tels qu’ils sont énoncés à l’article 4 du projet de loi)
8. De nouvelles procédures sont prévues afin d’obtenir des états financiers des payeurs. (Article 3.10 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d’enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Bureau des obligations alimentaires». (Paragraphe 2 (1) et (2) et l’article 3 du projet de loi)
10. Ajouter la définition de «bureau du directeur», «payeur», «ordonnance conditionnelle», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 2 (3) du projet de loi)
11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d’enfants. (Article 3 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
12. Préciser que le directeur n’est pas une partie aux instances visant à déterminer un droit aux termes d’une ordonnance alimentaire. (Paragraphe 3.9 (11) proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
13. Améliorer l’exécution des ordonnances alimentaires en exigeant des payeurs qu’ils avisent le bureau du directeur des changements d’adresse. (Article 3.12 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
14. Clarifier les circonstances dans lesquelles une ordonnance alimentaire déposée au bureau du directeur par le ministre des Services sociaux et communautaires peut être retirée. (Article 5 du projet de loi)
15. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d’enfants en tant qu’article distinct. (Article 6 du projet de loi)
16. Permettre l’échange de renseignements avec les fonctionnaires d’autres compétences qui sont chargés de l’exécution des ordonnances alimentaires et de garde d’enfants. (Paragraphe 7 (1) du projet de loi)
17. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l’accès à l’information et la protection de la vie privée*. (Paragraphe 7 (2) et (3) et article 8 du projet de loi)
18. Permettre l’emploi efficace des brefs de saisie-exécution pour l’exécution des ordonnances alimentaires. (Article 10.1 proposé de la Loi, tel qu’il est énoncé à l’article 9 du projet de loi)
19. Consolider la procédure d’audience sur le défaut. (Article 10 du projet de loi)
20. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d’application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d’un tribunal et donner à la Cour de l’Ontario (Division provinciale) le pouvoir d’interdire l’aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12.1 et 12.2 proposés de la Loi, tels qu’ils sont énoncés à l’article 11 du projet de loi)

21. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13.1 of the Act, as set out in section 12 of the Bill)
22. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13.2 of the Act, as set out in section 12 of the Bill)
23. To rename the Act as the *Family Support Plan Act, 1985*. (Section 13 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendments ensure that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

They also permit an employment standards officer to order the reinstatement of the employee, where appropriate.

21. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13.1 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
22. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13.2 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
23. Remplacer le titre de la Loi par *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. (Article 13 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

Les modifications font en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elles permettent également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

*Support and Custody Orders Enforcement Act,
1985*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out “debtor” and “debtor’s” wherever those words appear and replacing them in each case with “payor” or “payor’s” as is appropriate.

2.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the Act are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Child and Family Support Office. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“Director’s office” means the Child and Family Support Office; (“bureau du directeur”)

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 La *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Bureau des obligations alimentaires envers l’enfant et la famille. («Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«bureau du directeur» Le Bureau des obligations alimentaires envers l’enfant et la famille. («Director’s office»)

“income source” means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; (“source de revenu”)

“payor” means a person who is required to pay support under a support order; (“payeur”)

“provisional order” means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; (“ordonnance conditionnelle”)

“regulations” means the regulations made under this Act; (“règlements”)

“support deduction order” means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. (“ordonnance de retenue des aliments”)

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Child and Family Support Office who shall be appointed by the Lieutenant Governor in Council.

Status as
income
source

Director of
the Child
and Family
Support
Office

«ordonnance conditionnelle» Ordonnance qui n'a aucun effet tant qu'elle n'est pas homologuée par un autre tribunal. S'entend en outre des ordonnances rendues en vertu du paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Bureau des obligations alimentaires envers l'enfant et la famille.

Qualité de
source de
revenu

Directeur du
Bureau des
obligations
alimentaires
envers l'en-
fant et la
famille

4. Section 3 of the Act is repealed and the following substituted:

Filing of orders

3.—(1) A support or custody order may be filed with the Director's office.

Idem

(2) An order may be filed even if it has been previously withdrawn.

Who may file

(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.

Idem

(4) A custody order may only be filed by a person entitled to custody under it.

Director to enforce support orders

(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.

Prompt filing

(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.

Filing orders of other jurisdictions

(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.

Filing by Minister

(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act*, the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.

Filing of past orders

(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

Dépôt des ordonnances

(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.

Idem

(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.

Personnes pouvant déposer une ordonnance

(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.

Idem

(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.

Exécution des ordonnances alimentaires par le directeur

(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.

Dépôt rapide

(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.

Dépôt des ordonnances rendues dans d'autres compétences

(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la *Loi sur les prestations familiales* ou une aide en vertu de la *Loi sur l'aide sociale générale*, y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.

Dépôt par le ministre

(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée *Family Law Reform Act*,

Dépôts d'ordonnances antérieures

section 27 of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.

(Formerly section 3a)

Support deduction orders

3.1 —(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.

Exception

(2) A support deduction order shall not be made in respect of a provisional order.

Required information

(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.

Consent proceedings, etc.

(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.

Order mandatory

(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made. ➡

(Formerly section 3b)

Form of support deduction order

3.2 —(1) A support deduction order shall be in the form prescribed by the regulations. ➡

Completion of form, etc.

(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time. ➡

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(Formerly section 3c)

Persons bound

3.3 —(1) A support deduction order binds every income source who is served by the Director's office with a notice of the

qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.

(Anciennement l'article 3a)

3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.

Ordonnances de retenue des aliments

(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.

Exception

(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.

Renseignements exigés

(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.

Procédure relative au consentement

(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire. ➡

Ordonnance obligatoire

(Anciennement l'article 3b)

3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements. ➡

Formule de l'ordonnance de retenue des aliments

(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là. ➡

Rédaction de la formule

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

(Anciennement l'article 3c)

3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'or-

Personnes liées

order whether or not the income source is named in the order.

Enforcement
by Director

(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.

Idem

(3) No person other than the Director shall enforce a support deduction order.

When
enforcement
ends

(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has been withdrawn from the Director's office. ▲

Idem

(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Notice to
payor

(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

First
payment

(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.

Payor's duty
to pay

(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.

Arrears

(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.

donnance, qu'elles soient nommées ou non dans l'ordonnance.

(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.

Exécution par
le directeur

(3) Seul le directeur exécute une ordonnance de retenue des aliments.

Idem

(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte a été retirée du bureau du directeur. ▲

Fin de
l'exécution

(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Avis au
payeur

(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.

Premier
versement

(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.

Obligation de
payer du
payeur

(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représen-

Arriéré

Maximum deductions	(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.	tant un arriéré aux termes d'une ordonnance alimentaire.	
Definition	(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time payment is to be made to the Director's office, less the total of the following deductions:	(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.	Retenue maximale
	1. Income Tax.	(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au payeur au moment où le versement doit être fait au bureau du directeur, moins le total des retenues suivantes :	Définition
	2. Canada Pension Plan.	1. Celle de l'impôt sur le revenu.	
	3. Unemployment Insurance.	2. Celle du Régime de pensions du Canada.	
	4. Union dues.	3. Celle de l'assurance-chômage.	
	5. Such other deductions as may be prescribed by the regulations.	4. Celle des cotisations syndicales.	
Higher maximum payment	(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.	5. Les autres retenues pouvant être prescrites par les règlements.	
		(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.	Versement maximal plus élevé
Idem	(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).	(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).	Idem
Idem	(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.	(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.	Idem
Medical insurance, etc.	(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.	(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.	Assurances médicales
Person not income source	(17) If an individual, corporation or other entity served with notice is not an income source of the <u>payor</u> named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.	(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du <u>payeur</u> nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.	Personne qui n'est pas une source de revenu
Dispute	(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other,	(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'au-	Conflit

bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Director's office under the order is correct; or
- (c) whether the individual, corporation or other entity is an income source.

Idem

(19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem

(20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

Idem

(21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

Idem

(22) Subsection (21) does not apply to the Director.

Liability

(23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

Other enforcement

(24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (18) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order. ▲

Duty to inform

(25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

tre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur aux termes de l'ordonnance est correcte;
- c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

Idem

(19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

Idem

(20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

Idem

(21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

Idem

(22) Le paragraphe (21) ne s'applique pas au directeur.

Responsabilité

(23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

Autres moyens d'exécution

(24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (18) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire. ▲

Obligation d'informer

(25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Idem

(26) If notice has been or should have been given under subsection (25),

- (a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;
- (b) the payor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

Information confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

Conflict with other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

Welfare benefits

(31) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

(26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

Idem

- a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;
- b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Renseignements confidentiels

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Priorité

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Idem

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arêt n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Incompatibilité avec d'autres lois

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Prestations d'aide sociale

(31) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

(Formerly section 3d)

(Anciennement l'article 3d)

Suspension
of support
deduction
order

3.4 —(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

Suspension de
l'ordonnance
de retenue
des aliments

Conditions

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

Conditions

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

Unconscion-
able, deter-
mination

(3) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

(3) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

Détermina-
tion de ce qui
est déraison-
nable

- 1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
- 2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
- 3. The fact that the parties have agreed to the suspension of the support deduction order.
- 4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

- 1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
- 2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
- 3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
- 4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

Security

(4) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and the security shall be in money or in such other form as may be provided for in the regulations.

(4) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

Sûreté

Parties

(5) The parties to a motion brought to suspend the operation of a support deduction order are those persons who are parties to the support order.

(5) Les parties à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments sont les personnes qui sont parties à l'ordonnance alimentaire.

Parties

Idem

(6) If the payor brings a motion under subsection 3.8 (6), the Director must also be

(6) Si le payeur introduit une motion en vertu du paragraphe 3.8 (6), le directeur doit

Idem

served with notice of the motion and may appear.

Completion
of form, etc.

(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed. ▲

Prompt filing

(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

Form and
effective
date

(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

Termination
of suspen-
sion order

(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.

Effect of
termination

(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted. ▼

Support
order not
affected

(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order. ▲

(Formerly section 3i)

Disputes,
etc., by
payor

3.5 —(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6),

- (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;
- (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3.4;
- (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.

également recevoir signification de l'avis de motion et il peut comparaître.

(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée. ▲

(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.

(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie. ▼

(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire. ▲

(Anciennement l'article 3i)

3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut :

- a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;
- b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3.4;
- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

Rédaction de
la formule

Dépôt rapide

Formule et
entrée en
vigueur

Révocation
de l'ordon-
nance de sus-
pension

Effet de la
révocation

Absence d'ef-
fet sur l'or-
donnance
alimentaire

Contestations
du payeur

Dispute over entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

Contestation du droit aux aliments

Necessary party

(3) The Director is a necessary party to a motion referred to in subsection (1).

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

Partie essentielle

Power of court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

Pouvoir du tribunal

Idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

Idem

(Formerly section 3e)

(Anciennement l'article 3e)

Variation of support deduction order

3.6 —(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

Modification de l'ordonnance de retenue des aliments

New order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

Nouvelle ordonnance

Exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

Exception

(Formerly section 3f)

(Anciennement l'article 3f)

No opting out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

Obligation de se conformer à l'ordonnance de retenue des aliments

(Formerly section 3k)

(Anciennement l'article 3k)

Old orders, domestic contracts, paternity agreements

3.8 —(1) This section applies only to support orders filed with the Director's office that are,

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

Anciennes ordonnances, anciens contrats familiaux et accords de paternité

(a) support orders made by an Ontario court before this section comes into force;

a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;

(b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act*, 1986.

b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

Enforcement

(2) The Director may enforce payment under a support order to which this section

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance

Exécution

applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive support under the order requests enforcement under this section and the Director considers it practical to do so. ▲

Notice

(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office. ▲

Idem

(4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown. ▲

Deemed support deduction order

(5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor. ▲

Suspension

(6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5). ▲

Delay of enforcement

(7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined. ▲

No form required

(8) Section 3.2 does not apply to an order described in subsection (5). ▲

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

(Formerly section 3g)

Termination of support obligation

3.9 —(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation.

Idem

(2) If the parties to a support order agree, in the manner prescribed by the regulations, or if the support obligation is stated in a support order to terminate on a set calendar

alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le directeur estime qu'il est pratique de le faire. ▲

Avis

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. ▲

Idem

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés. ▲

Ordonnance de retenue des aliments réputée rendue

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur. ▲

Suspension

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5). ▲

Retard de l'exécution

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise. ▲

Aucune formule exigée

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5). ▲

Tribunal approprié

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

(Anciennement l'article 3g)

Fin de l'obligation alimentaire

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements.

Idem

(2) Si les parties à une ordonnance alimentaire s'entendent de la façon prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond

date, the Director shall cease enforcement of a support obligation that has terminated.

Disputes

(3) If the parties to a support order do not agree, the court that made a support order shall, on the motion of a party to the order, decide if a support obligation has terminated.

Order to repay

(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.

Idem

(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.

Continued enforcement

(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.

Idem

(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.

Notice to income sources

(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.

Idem

(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.

Parties

(10) The parties to a motion under this section are those persons who are the parties to the support order.

Director not party

(11) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order.

(Formerly section 3j)

Financial statements

3.10 —(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.

à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter une obligation alimentaire qui a pris fin.

(3) Si les parties à une ordonnance alimentaire ne s'entendent pas, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance, si l'obligation alimentaire a pris fin.

(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.

(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.

(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.

(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.

(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.

(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.

(10) Les parties à une motion prévue au présent article sont les personnes qui sont parties à l'ordonnance alimentaire.

(11) Le directeur n'est pas une partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire.

(Anciennement l'article 3j)

3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur,

Conflits

Ordonnance de remboursement

Idem

L'exécution continue

Idem

Avis aux sources de revenu

Idem

Parties

Le directeur n'est pas une partie

États financiers

Idem

(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.

Idem

(3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Idem

(4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.

Changes in information

(5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.

Failure to comply

(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.

Limitation

(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.

(New)

Payments pending court decisions

3.11 —(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.

Exception

(2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.

accompagné de preuves relatives à son revenu que les règlements peuvent exiger.

Idem

(2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.

Idem

(3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

(4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.

Idem

(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.

Changements relatifs aux renseignements

Idem

(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.

Défaut de se conformer

Idem

(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.

Restriction

(Nouveau)

Idem

3.11 (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9, le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.

Versements en attendant une décision du tribunal

Idem

(2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.

Exception

(Formerly section 3L)

Duty to
advise on
address
change

3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

Withdrawal
not
permitted

(2) Despite subsection (1), a support order filed by the Minister of Community and Social Services may not be withdrawn except by the Minister or except with the Minister's consent if the support order is under assignment to the Ministry of Community and Social Services or there are arrears owing to that Ministry from a past assignment.

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

Access to
information

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act* (Canada) for the enforcement of a support or custody order, except,

(a) to the extent necessary for the enforcement of the order; or

(b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

9. The Act is further amended by adding the following section:

Information
obtained
from federal
government

(Anciennement l'article 3L)

3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

Changement
d'adresse

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) Malgré le paragraphe (1), l'ordonnance alimentaire déposée par le ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement si l'ordonnance alimentaire est cédée au ministère des Services sociaux et communautaires ou qu'un arriéré provenant d'une cession antérieure est dû à ce ministère.

Retrait non
autorisé

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

Accès aux
renseigne-
ments

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales* (Canada) en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

Renseigne-
ments obte-
nus du gou-
vernement
fédéral

a) dans la mesure nécessaire à l'exécution de l'ordonnance;

b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

Notice to
sheriff of
amount
owing

10.1 —(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

Effect of
statutory
declaration

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

Notice from
sheriff of
opportunity
to give statu-
tory declara-
tion

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

Idem

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

Manner of
giving notice

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

Removal of
writ from
sheriff's file

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;
- (c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or
- (d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

Avis au shérif
concernant la
somme due

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

Effet de la
déclaration
solennelle

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

Avis du shérif
concernant la
déclaration
solennelle

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

Idem

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

Façon de
donner l'avis

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

Enlèvement
d'un bref du
dossier du
shérif

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;
- c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);
- d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été

(1) since the giving of the notice and the writ has been fully satisfied.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:


1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

Delivery of statutory declaration to land registrar

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

Filing of financial statement with Director

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default. 

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

- (a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

(4) Section 11 of the Act is amended by adding the following subsection:

déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :


1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

Dépôt par télécopie

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaître devant le tribunal pour expliquer le défaut. 

Dépôt d'un état financier auprès du directeur

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

Interim
orders

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payer. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances
provisoires

11. Section 12 of the Act is repealed and the following substituted:

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

Restraining
order

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance
de ne pas
faire

Contempt

12.1 —(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

Conditions
of imprison-
ment

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonne-
ment

Offences

12.2 A person who knowingly contravenes subsection 3.3 (9), (17), (25), (26) or (27), section 3.8 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (9), (17), (25), (26) ou (27), à l'article 3.8 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12. The Act is further amended by adding the following sections:

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

Enforcement
alternatives

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres
moyens
employés
pour l'exécu-
tion

Regulations

13.2 The Lieutenant Governor in Council may make regulations,

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;
- (c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;
- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);

(d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);

(e) prescribing deductions for the purposes of subsection 3.3 (12);

(f) prescribing information that shall be supplied under subsection 3.3 (25);

(g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;

(h) respecting proof of income for the purposes of section 3.10.

13. Section 18 of the Act is repealed and the following substituted:

18. The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);

e) prescrire les retenues aux fins du paragraphe 3.3 (12);

f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);

g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;

h) traiter des preuves relatives au revenu aux fins de l'article 3.10.

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*.

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

(a) dismiss or threaten to dismiss an employee;

(b) discipline or suspend an employee;

(c) impose any penalty on an employee;
or

(d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employ-

Short title

Titre abrégé

ment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

PART III

Commencement, Short Title

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Family Support Plan Amendment Act, 1991*.

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PARTIE III

Entrée en vigueur et titre abrégé

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

20 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille*.

Titre abrégé

Bill 17	Government Bill	Projet de loi 17	du gouvernement
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1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

1st Reading December 5th, 1990
2nd Reading December 18th, 1990
3rd Reading
Royal Assent

*(Reprinted as amended by the Committee
of the Whole House)*

Projet de loi 17

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**



L'honorable H. Hampton
Procureur général

1^{re} lecture 5 décembre 1990
2^e lecture 18 décembre 1990
3^e lecture
sanction royale

*(Réimprimé tel qu'il est modifié par le
Comité plénier de l'Assemblée législative)*

EXPLANATORY NOTES

The Bill amends the *Support and Custody Orders Enforcement Act, 1985*, which under section 13 of the Bill will be renamed the *Family Support Plan Act, 1985*. It also amends the *Employment Standards Act*.

PART I

Support and Custody Orders Enforcement Act, 1985

The principal purpose of the amendments to the *Support and Custody Orders Enforcement Act, 1985* is to provide for automatic deduction of support payments from the income of people required to pay support and to provide for the payment to the Director of the *Family Support Plan* of the amount deducted. This will be done through a new court order which is created by the Bill. The principal features of this new method of support order enforcement are as follows:

1. The new order will be known as a "support deduction order".
2. A support deduction order will be made by an Ontario court at the time it makes a support order. (Proposed section 3.1 of the Act, as set out in section 4 of the Bill). Special provision is made for existing support orders made by Ontario courts and for domestic contracts and paternity agreements that have been filed in the Director's office. (Proposed section 3.8 of the Act, as set out in section 4 of the Bill)
3. A person who makes periodic payments (an "income source") to a person who is required to make support payments (a "payor") will be required to deduct up to 50 per cent of each periodic payment owed to the payor and pay the amount deducted to the Director. The Director will pay the amounts collected to the person entitled to payment under the support order to which the support deduction order relates. (Proposed section 3.3 of the Act, as set out in section 4 of the Bill)
4. The Director must enforce a support deduction order unless its operation is suspended by the court. A suspension order may only be made if the conditions set out in the Act are met. In particular, suspension is available only if enforcement of the order would be unconscionable or if the parties agree and the payor posts security. (Proposed sections 3.3 and 3.4 of the Act, as set out in section 4 of the Bill)
5. The Director will be required to enforce support orders until they are terminated or withdrawn from the Director's office. A support deduction order, unless suspended, must be enforced until the support order to which it relates is terminated. If the parties do not agree that termination has occurred, enforcement will continue until the dispute is resolved. Special provision is made for cases where support order has been assigned to an agency described in subsection 33 (3) of the Family Law Act, 1986. (Proposed sections 3.3 and 3.9 of the Act, as set out in section 4 of the Bill)

NOTES EXPLICATIVES

Le projet de loi modifie la *Loi de 1985 sur l'exécution des ordonnances alimentaires et de garde d'enfants*, laquelle, aux termes de l'article 13 du projet de loi, reçoit le nouveau titre *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. Il modifie également la *Loi sur les normes d'emploi*.

PARTIE I

Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants

L'objectif principal des modifications apportées à la *Loi de 1985 sur l'exécution d'ordonnances alimentaires et de garde d'enfants* est de prévoir la retenue automatique des versements d'aliments du revenu des personnes qui doivent verser des aliments et prévoir le versement de la somme retenue au directeur du *Régime des obligations alimentaires envers la famille*. Cette retenue automatique s'effectuera au moyen d'une nouvelle ordonnance du tribunal créée par le projet de loi. Les principales caractéristiques de ce nouveau mode d'exécution des ordonnances alimentaires sont les suivantes :

1. La nouvelle ordonnance s'appellera «ordonnance de retenue des aliments».
2. L'ordonnance de retenue des aliments sera rendue par un tribunal de l'Ontario lorsque celui-ci rend une ordonnance alimentaire. (Article 3.1 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi). Des dispositions spéciales sont prévues pour les ordonnances alimentaires existantes qui ont été rendues par des tribunaux de l'Ontario et pour les contrats familiaux et les accords de paternité qui ont été déposés au bureau du directeur. (Article 3.8 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
3. La personne qui fait des versements périodiques (la «source de revenu») à la personne qui doit verser des aliments (le «payeur») devra retenir jusqu'à 50 pour cent de chaque versement périodique dû au payeur et verser la somme retenue au directeur. Celui-ci versera les sommes perçues à la personne qui a droit au versement aux termes de l'ordonnance alimentaire à laquelle se rapporte l'ordonnance de retenue des aliments. (Article 3.3 proposé de la Loi, tel qu'il est énoncé à l'article 4 du projet de loi)
4. Le directeur doit exécuter une ordonnance de retenue des aliments, sauf si l'application de celle-ci est suspendue par le tribunal. L'ordonnance de suspension ne peut être rendue que si les conditions énoncées par la Loi sont remplies. En particulier, la suspension ne peut être obtenue que si l'exécution de l'ordonnance était déraisonnable ou que les parties s'entendent et que le payeur fournit une sûreté. (Articles 3.3 et 3.4 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)
5. Le directeur sera tenu d'exécuter les ordonnances alimentaires jusqu'à leur révocation ou leur retrait du bureau du directeur. À moins qu'elles ne soient suspendues, les ordonnances de retenue des aliments doivent être exécutées, jusqu'à la révocation de l'ordonnance alimentaire à laquelle elles se rapportent. Si les parties ne s'entendent pas sur la question de savoir s'il y a eu un cas de révocation, l'exécution continuera jusqu'à ce que le conflit soit réglé. Des dispositions particulières sont prévues lorsque l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la Loi de 1986 sur le droit de la famille. (Articles 3.3 et 3.9 proposés de la Loi, tels qu'ils sont énoncés à l'article 4 du projet de loi)

6. A payor will be able to dispute the amount being deducted under a support deduction order if he or she believes that a mistake has been made and whether or not a suspension order has been properly terminated. The payor may also seek relief with respect to the payment of arrears under a support deduction order. (Proposed section 3.5 of the Act, as set out in section 4 of the Bill)
7. Support deduction orders in respect of on-going support obligations can be varied only by a court and only if the support order to which it relates is varied. The parties cannot opt out of the program unless the court issues a suspension order. (Proposed sections 3.6 and 3.7 of the Act, as set out in section 4 of the Bill)
8. New procedures are provided for obtaining financial statements from payors. (Proposed section 3.10 of the Act, as set out in section 4 of the Bill)

The Bill also amends the Act:

9. To clarify the definitions of “custody order” and “support order” and to change the title of the Director to “Director of the Family Support Plan”. (Subsections 2 (1) and (2) and section 3 of the Bill)
10. To add definitions of “payor”, “income source”, “provisional order”, “regulations” and “support deduction order”. (Subsection 2 (3) of the Bill)
11. To clarify the provisions regarding the filing of support and custody orders. (Proposed section 3 of the Act, as set out in section 4 of the Bill)
12. To clarify that the Director is not a party to any proceeding to determine entitlement under a support order. (Proposed subsection 3.9 (11) of the Act, as set out in section 4 of the Bill)
13. To improve enforcement of support orders by requiring payors to advise the Director’s office of address changes. (Proposed section 3.12 of the Act, as set out in section 4 of the Bill)
14. To require a person entitled to receive support who has not filed a support order with the Director to file certain information with the Director if a support deduction order has been made. (Proposed section 3.13 of the Act, as set out in section 4 of the Bill)
15. To clarify the circumstances under which a support order assigned to the Minister of Community and Social Services may be withdrawn. (Section 5 of the Bill)
16. To establish the notice provision related to the filing and withdrawal of support and custody orders as a separate section. (Section 6 of the Bill)
17. To permit information sharing with officials in other jurisdictions who are responsible for the enforcement of support and custody orders. (Subsection 7 (1) of the Bill)
18. To permit information to be released only in compliance with the *Freedom of Information and Protection of Privacy Act, 1987*. (Subsections 7 (2) and (3) and section 8 of the Bill)
19. To permit the effective use of writs of seizure and sale to enforce support orders. (Proposed section 10.1 of the Act, as set out in section 9 of the Bill)

6. Le payeur pourra contester la somme retenue aux termes d’une ordonnance de retenue des aliments s’il croit qu’une erreur a été commise et il pourra contester le fait qu’une ordonnance de suspension a été révoquée de façon appropriée ou non. Le payeur peut également demander un redressement à l’égard du paiement d’un arriéré exigible aux termes d’une ordonnance de retenue des aliments. (Article 3.5 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
7. L’ordonnance de retenue des aliments à l’égard des obligations alimentaires existantes et à venir ne peut être modifiée que par un tribunal et que si l’ordonnance alimentaire à laquelle elle se rapporte est modifiée. Les parties sont obligées de se conformer au programme, sauf si le tribunal rend une ordonnance de suspension. (Articles 3.6 et 3.7 proposés de la Loi, tels qu’ils sont énoncés à l’article 4 du projet de loi)
8. De nouvelles procédures sont prévues afin d’obtenir des états financiers des payeurs. (Article 3.10 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)

Le projet de loi modifie également la Loi aux fins suivantes :

9. Clarifier la définition des expressions «ordonnance de garde d’enfants» et «ordonnance alimentaire» et remplacer le titre du directeur par «directeur du Régime des obligations alimentaires envers la famille». (Paragraphe 2 (1) et (2) et l’article 3 du projet de loi)
10. Ajouter la définition de «payeur», «ordonnance conditionnelle», «ordonnance de retenue des aliments», «règlements» et «source de revenu». (Paragraphe 2 (3) du projet de loi)
11. Clarifier les dispositions relatives au dépôt des ordonnances alimentaires et de garde d’enfants. (Article 3 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
12. Préciser que le directeur n’est pas une partie aux instances visant à déterminer un droit aux termes d’une ordonnance alimentaire. (Paragraphe 3.9 (11) proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
13. Améliorer l’exécution des ordonnances alimentaires en exigeant des payeurs qu’ils avisent le bureau du directeur des changements d’adresse. (Article 3.12 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
14. Exiger d’une personne ayant droit aux aliments qui n’a pas déposé une ordonnance alimentaire auprès du directeur, si une ordonnance de retenue des aliments a été rendue, qu’elle dépose auprès du directeur certains renseignements. (Article 3.13 proposé de la Loi, tel qu’il est énoncé à l’article 4 du projet de loi)
15. Clarifier les circonstances dans lesquelles une ordonnance alimentaire cédée au ministre des Services sociaux et communautaires peut être retirée. (Article 5 du projet de loi)
16. Créer la disposition sur les avis relative au dépôt et au retrait des ordonnances alimentaires et de garde d’enfants en tant qu’article distinct. (Article 6 du projet de loi)
17. Permettre l’échange de renseignements avec les fonctionnaires d’autres compétences qui sont chargés de l’exécution des ordonnances alimentaires et de garde d’enfants. (Paragraphe 7 (1) du projet de loi)
18. Ne permettre la divulgation de renseignements que conformément à la *Loi de 1987 sur l’accès à l’information et la protection de la vie privée*. (Paragraphe 7 (2) et (3) et article 8 du projet de loi)
19. Permettre l’emploi efficace des brefs de saisie-exécution pour l’exécution des ordonnances alimentaires. (Article

- 20. To strengthen the default hearing procedure. (Section 10 of the Bill)
- 21. To provide penalties for certain contraventions of the Act and to provide for enforcement where there is contempt of any court process, rule or order and to give the Ontario Court (Provincial Division) the power to restrain the disposition or wasting of assets and to make contempt orders. (Proposed sections 12, 12.1 and 12.2 of the Act, as set out in section 11 of the Bill)
- 22. To clarify that the use of one method of enforcing a support order, custody order or support deduction order does not preclude the use of other methods. (Proposed section 13.1 of the Act, as set out in section 12 of the Bill)
- 23. To permit the Lieutenant Governor in Council to make regulations for the purposes of the Act. (Proposed section 13.2 of the Act, as set out in section 12 of the Bill)
- 24. To rename the Act as the *Family Support Plan Act*, 1985. (Section 13 of the Bill)

PART II

Employment Standards Act

Part II of the Bill amends only the English version of the *Employment Standards Act*. The Legislature has not yet adopted an official French language version of this Act.

The amendments ensure that an employer does not penalize an employee because a court has ordered the employer to make payments to a third party on the employee's behalf. At present, employees are only protected against penalties related to garnishment proceedings.

They also permit an employment standards officer to order the reinstatement of the employee, where appropriate.

10.1 proposé de la Loi, tel qu'il est énoncé à l'article 9 du projet de loi)

- 20. Consolider la procédure d'audience sur le défaut. (Article 10 du projet de loi)
- 21. Prévoir des peines pour certaines infractions à la Loi, prévoir des mécanismes d'application en cas de désobéissance à un acte de procédure, à une règle ou à une ordonnance d'un tribunal et donner à la Cour de l'Ontario (Division provinciale) le pouvoir d'interdire l'aliénation ou la dilapidation de biens et de rendre des ordonnances pour outrage. (Articles 12, 12.1 et 12.2 proposés de la Loi, tels qu'ils sont énoncés à l'article 11 du projet de loi)
- 22. Préciser que l'emploi d'un moyen pour l'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments n'empêche pas l'emploi d'autres moyens. (Article 13.1 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
- 23. Permettre au lieutenant-gouverneur en conseil de prendre des règlements pour l'application de la Loi. (Article 13.2 proposé de la Loi, tel qu'il est énoncé à l'article 12 du projet de loi)
- 24. Remplacer le titre de la Loi par *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. (Article 13 du projet de loi)

PARTIE II

Loi sur les normes d'emploi

La partie II du projet de loi ne modifie que la version anglaise de la *Loi sur les normes d'emploi* puisque la Législature n'a pas encore adopté de version française officielle de cette Loi.

Les modifications font en sorte qu'un employeur ne pénalise pas un employé parce qu'un tribunal a ordonné à cet employeur de faire des versements à un tiers pour le compte de l'employé. Actuellement, les employés ne sont protégés que contre les sanctions relatives à une saisie-arrêt.

Elles permettent également à un agent des normes d'emploi d'ordonner la réintégration de l'employé, dans les cas appropriés.

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

*Support and Custody Orders Enforcement Act,
1985*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out “debtor” and “debtor’s” wherever those words appear and replacing them in each case with “payor” or “payor’s” as is appropriate.

2.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the Act are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Family Support Plan. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“income source” means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 La *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Régime des obligations alimentaires envers la famille. («Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«ordonnance conditionnelle» Ordonnance qui n’a aucun effet tant qu’elle n’est pas homologuée par un autre tribunal. S’entend en

- (a) wages or salary,
- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; ("source de revenu")

"payor" means a person who is required to pay support under a support order; ("payeur")

"provisional order" means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; ("ordonnance conditionnelle")

"regulations" means the regulations made under this Act; ("règlements")

"support deduction order" means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. ("ordonnance de retenue des aliments")

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Family Support Plan who shall be appointed by the Lieutenant Governor in Council.

4. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

autre des ordonnances rendues en vertu du paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments» Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Régime des obligations alimentaires envers la famille.

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

Status as
income
source

Director of
the Family
Support Plan

Filing of
orders

Qualité de
source de
revenu

Directeur du
Régime des
obligations
alimentaires
envers la
famille

Dépôt des
ordonnances

Idem	(2) An order may be filed even if it has been previously withdrawn.	(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.	Idem
Who may file	(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.	(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.	Personnes pouvant déposer une ordonnance
Idem	(4) A custody order may only be filed by a person entitled to custody under it.	(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.	Idem
Director to enforce support orders	(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.	(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.	Exécution des ordonnances alimentaires par le directeur
Prompt filing	(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.	(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt rapide
Filing orders of other jurisdictions	(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.	(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt des ordonnances rendues dans d'autres compétences
Filing by Minister	(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the <i>Family Benefits Act</i> or assistance under the <i>General Welfare Assistance Act</i> , the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.	(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la <i>Loi sur les prestations familiales</i> ou une aide en vertu de la <i>Loi sur l'aide sociale générale</i> , y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.	Dépôt par le ministre
Filing of past orders	(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the <i>Family Law Reform Act</i> , being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.	(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée <i>Family Law Reform Act</i> , qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.	Dépôts d'ordonnances antérieures

Support deduction orders	3.1—(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.	3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.	Ordonnances de retenue des aliments
Exception	(2) A support deduction order shall not be made in respect of a provisional order.	(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.	Exception
Required information	(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.	(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.	Renseignements exigés
Consent proceedings, etc.	(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.	(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.	Procédure relative au consentement
Order mandatory	(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made.	(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire.	Ordonnance obligatoire
Form of support deduction order	3.2—(1) A support deduction order shall be in the form prescribed by the regulations.	3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.	Formule de l'ordonnance de retenue des aliments
Completion of form, etc.	(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time.	(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là.	Rédaction de la formule
Prompt filing	(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.	(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.	Dépôt rapide
Persons bound	3.3—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.	3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.	Personnes liées
Enforcement by Director	(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.	(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.	Exécution par le directeur
Idem	(3) No person other than the Director shall enforce a support deduction order.	(3) Seul le directeur exécute une ordonnance de retenue des aliments.	Idem

When
enforcement
ends

(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has not been filed in or has been withdrawn from the Director's office.

Idem

(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Notice to
payor

(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

First
payment

(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.

Payor's duty
to pay

(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.

Arrears

(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.

Maximum
deductions

(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.

Definition

(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time

(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte n'a pas été déposée au bureau du directeur ou en a été retirée.

Fin de
l'exécution

(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Avis au
payeur

(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.

Premier
versement

(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.

Obligation de
payer du
payeur

(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes d'une ordonnance alimentaire.

Arriéré

(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.

Retenue
maximale

(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au

Définition

payment is to be made to the Director's office, less the total of the following deductions:

1. Income Tax.
2. Canada Pension Plan.
3. Unemployment Insurance.
4. Union dues.
5. Such other deductions as may be prescribed by the regulations.

Higher
maximum
payment

(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.

Idem

(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).

Idem

(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.

Medical
insurance,
etc.

(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.

Person not
income
source

(17) If an individual, corporation or other entity served with notice is not an income source of the payor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

Dispute

(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other, bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Direc-

payeur au moment où le versement doit être fait au bureau du directeur, moins le total des retenues suivantes :

1. Celle de l'impôt sur le revenu.
2. Celle du Régime de pensions du Canada.
3. Celle de l'assurance-chômage.
4. Celle des cotisations syndicales.
5. Les autres retenues pouvant être prescrites par les règlements.

Versement
maximal plus
élevé

(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Idem

(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).

Idem

(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.

Assurances
médicales

(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.

Personne qui
n'est pas une
source de
revenu

(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du payeur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Conflit

(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'autre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur

tor's office under the order is correct;
or

- (c) whether the individual, corporation or other entity is an income source.

Idem

(19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem

(20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

Idem

(21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

Idem

(22) Subsection (21) does not apply to the Director.

Liability

(23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

Other enforcement

(24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (19) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order.

Duty to inform

(25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

Idem

(26) If notice has been or should have been given under subsection (25),

- (a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;
- (b) the payor, within ten days of beginning employment with another income source or of becoming entitled to pay-

aux termes de l'ordonnance est correcte;

- c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

Idem

(19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

Idem

(20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

Idem

(21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

Idem

(22) Le paragraphe (21) ne s'applique pas au directeur.

Responsabilité

(23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

Autres moyens d'exécution

(24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (19) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

Obligation d'informer

(25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Idem

(26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

- a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;
- b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après

ments from another income source, shall give written notice to the Director's office of the new employment or the entitlement and of the name and address of the income source.

qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Information
confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseignements
confidentiels

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'à l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrest relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arrest n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Idem

Conflict with
other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Incompatibilité avec
d'autres lois

Limitation

(31) A support deduction order is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of the support deduction order to the payor named in the notice.

(31) L'ordonnance de retenue des aliments n'a d'effet contre la Couronne qu'à l'égard des sommes payables pour le compte du service administratif qui a reçu signification de l'avis de l'ordonnance de retenue des aliments au payeur désigné dans l'avis.

Restriction

Definition

(32) In subsection (31), "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

(32) Au paragraphe (31), «service administratif» s'entend d'un ministère du gouvernement de l'Ontario, d'un organisme de la Couronne au sens de la *Loi sur les organismes de la Couronne* ou du Bureau de l'Assemblée, au sens de la *Loi sur l'Assemblée législative*.

Définition

Welfare
benefits

(33) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under

(33) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre

Prestations
d'aide sociale

the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

Suspension of support deduction order

3.4—(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

Conditions

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

Agency's consent required

(3) If the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986* or if there are arrears owing to the agency from a past assignment, the court shall not suspend the support deduction order in the circumstances described in clause (2) (b) without the agency's consent.

Unconscionable, determination

(4) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
3. The fact that the parties have agreed to the suspension of the support deduction order.
4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

Security

(5) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and

de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

Suspension de l'ordonnance de retenue des aliments

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

Conditions

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

Consentement de l'organisme exigé

(3) Si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille* ou si un arriéré provenant d'une cession antérieure est dû à l'organisme, le tribunal ne doit pas suspendre l'ordonnance de retenue des aliments dans les circonstances prévues à l'alinéa (2) b) sans le consentement de l'organisme.

Détermination de ce qui est déraisonnable

(4) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

Sûreté

(5) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre

the security shall be in money or in such other form as may be provided for in the regulations.

When Director a party

(6) The Director is not a party to a motion brought to suspend the operation of a support deduction order; however, if the payor brings a motion under subsection 3.8 (6), the Director must also be served with notice of the motion and may be added as a party.

Completion of form, etc.

(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed.

Prompt filing

(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.

Form and effective date

(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.

Termination of suspension order

(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.

Effect of termination

(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.

Support order not affected

(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order.

Disputes, etc., by payor

3.5—(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6),

(a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act;

(b) may dispute whether he or she has defaulted in paying support after a sus-

mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

(6) Le directeur n'est pas partie à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments. Toutefois, si le payeur présente une motion en vertu du paragraphe 3.8 (6), le directeur doit également recevoir signification de l'avis de motion et il peut être ajouté comme partie.

Le directeur est partie à une motion

(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée.

Rédaction de la formule

(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.

Dépôt rapide

(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.

Formule et entrée en vigueur

(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.

Révocation de l'ordonnance de suspension

(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.

Effet de la révocation

(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire.

Absence d'effet sur l'ordonnance alimentaire

3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut :

Contestations du payeur

a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue;

b) contester son défaut de verser des aliments après qu'une ordonnance de

pension order has been made under section 3.4;

- (c) may seek relief regarding the amount which is being deducted under a support deduction order for arrears under a support order.

Dispute over entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

Necessary party

(3) The Director is a necessary party to a motion referred to in subsection (1).

Power of court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

Variation of support deduction order

3.6—(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

New order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

Exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

No opting out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

Old orders, domestic contracts, paternity agreements

3.8—(1) This section applies only to support orders filed with the Director's office that are,

- (a) support orders made by an Ontario court before this section comes into force;
- (b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act*, 1986.

suspension a été rendue en vertu de l'article 3.4;

- c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des aliments, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

- a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;
- b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

Contestation du droit aux aliments

Partie essentielle

Pouvoir du tribunal

Idem

Modification de l'ordonnance de retenue des aliments

Nouvelle ordonnance

Exception

Obligation de se conformer à l'ordonnance de retenue des aliments

Anciennes ordonnances, anciens contrats familiaux et accords de paternité

Enforcement

(2) The Director may enforce payment under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive support under the order requests enforcement under this section and the Director considers it practical to do so.

Notice

(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

Idem

(4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Deemed support deduction order

(5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor.

Suspension

(6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5).

Delay of enforcement

(7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined.

No form required

(8) Section 3.2 does not apply to an order described in subsection (5).

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

Termination of support obligation

3.9—(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation.

Idem

(2) If the parties to a support order agree in the manner prescribed by the regulations or if the support obligation is stated in a support order to terminate on a set calendar date, the Director shall cease enforcement of a support obligation that has terminated;

Exécution

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le demandeur estime qu'il est pratique de le faire.

Avis

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Idem

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Ordonnance de retenue des aliments réputée rendue

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur.

Suspension

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5).

Retard de l'exécution

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise.

Aucune formule exigée

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5).

Tribunal approprié

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

Fin de l'obligation alimentaire

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements.

Idem

(2) Si les parties à une ordonnance alimentaire s'entendent de la manière prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter l'obli-

however, if the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986*, the Director shall not cease enforcement of the support obligation without the agency's consent.

Disputes

(3) If the parties to the support order do not agree or if the agency does not consent, the court that made the support order shall, on the motion of a party to the order or of the agency, decide if the support obligation has terminated. ▲

Order to repay

(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.

Idem

(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.

Continued enforcement

(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.

Idem

(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.

Notice to income sources

(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.

Idem

(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.

Director not party

(10) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order or to a motion to decide whether a support obligation has terminated. ▲

Financial statements

3.10—(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial

gation alimentaire qui a pris fin. Toutefois, si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille*, le directeur ne doit pas cesser d'exécuter l'obligation alimentaire sans le consentement de l'organisme.

Conflits

(3) Si les parties à une ordonnance alimentaire ne s'entendent pas ou si l'organisme ne donne pas son consentement, le tribunal qui a rendu l'ordonnance alimentaire décide, sur motion présentée par une partie à l'ordonnance ou par l'organisme, si l'obligation alimentaire a pris fin. ▲

Ordonnance de remboursement

(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.

Idem

(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.

L'exécution continue

(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.

Idem

(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.

Avis aux sources de revenu

(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.

Idem

(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.

Le directeur n'est pas partie à une instance

(10) Le directeur n'est pas partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire ni à une motion visant à établir si une obligation alimentaire a pris fin. ▲

États financiers

3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la

statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.

Idem

(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.

Idem

(3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Idem

(4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.

Changes in information

(5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.

Failure to comply

(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.

Limitation

(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.

Payments pending court decisions

3.11—(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.

Exception

(2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.

formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.

Idem

(2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.

Idem

(3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Idem

(4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.

Changements relatifs aux renseignements

(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.

Défaut de se conformer

(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.

Restriction

(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.

Versements en attendant une décision du tribunal

3.11 (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9; le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.

Exception

(2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.

Duty to
advise on
address
change

3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.

3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.

Changement
d'adresse

Duty re:
unfiled or
withdrawn
support
orders

3.13 Where a support deduction order has been made in respect of a support order that has not been filed in or that has been withdrawn from the Director's office, the person entitled to receive support shall inform the Director in writing of,

3.13 Si une ordonnance de retenue des aliments a été rendue relativement à une ordonnance alimentaire qui n'a pas été déposée au bureau du directeur ou qui en a été retirée, la personne ayant droit aux aliments avise par écrit le directeur :

Obligations
concernant
les ordonnan-
ces alimentai-
res non
déposées ou
retirées

(a) the amount of money received on account of the support order other than through the support deduction order; and

a) des sommes d'argent reçues en raison de l'ordonnance alimentaire autrement qu'au moyen de l'ordonnance de retenue des aliments;

(b) any changes in the amount to be paid under the support order.

b) de tout changement apporté à la somme devant être versée aux termes de l'ordonnance alimentaire.

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

Consent
required

(2) A support order that has been assigned to the Minister of Community and Social Services may not be withdrawn except by the Minister or with the Minister's consent so long as the order is under assignment or if there are arrears owing to the Ministry of Community and Social Services from a past assignment.

(2) L'ordonnance alimentaire qui a été cédée au ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement tant que l'ordonnance est cédée ou si un arriéré provenant d'une cession antérieure est dû au ministère des Services sociaux et communautaires.

Consentement
exigé

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

Access to
information

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

Accès aux
renseigne-
ments

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act*, 1987.

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

(a.1) as permitted by the *Freedom of Information and Protection of Privacy Act*, 1987.

a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

Information
obtained
from federal
government

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act*

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales* (Canada) en vue de l'exé-

Renseigne-
ments obte-
nus du gou-
vernement
fédéral

(Canada) for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or
- (b) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

9. The Act is further amended by adding the following section:

10.1—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;

cution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;
- b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;

Notice to sheriff of amount owing

Effect of statutory declaration

Notice from sheriff of opportunity to give statutory declaration

Idem

Manner of giving notice

Removal of writ from sheriff's file

Avis au shérif concernant la somme due

Effet de la déclaration solennelle

Avis du shérif concernant la déclaration solennelle

Idem

Façon de donner l'avis

Enlèvement d'un bref du dossier du shérif

(c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or

(d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection (1) since the giving of the notice and the writ has been fully satisfied.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:

1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

Delivery of statutory declaration to land registrar

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default.

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

Filing of financial statement with Director

c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);

d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

Dépôt par télécopie

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :

1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaitre devant le tribunal pour expliquer le défaut.

Dépôt d'un état financier auprès du directeur

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

- (a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

(4) Section 11 of the Act is amended by adding the following subsection:

- (6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

Interim
orders

11. Section 12 of the Act is repealed and the following substituted:

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Restraining
order

12.1—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Contempt

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Conditions
of imprison-
ment

12.2 A person who knowingly contravenes subsection 3.3 (8), (17), (25), (26) or (27), section 3.12 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Offences

12. The Act is further amended by adding the following sections:

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Enforcement
alternatives

13.2 The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;

Regulations

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

Ordonnances
provisoires

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance
de ne pas
faire

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonne-
ment

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (8), (17), (25), (26) ou (27), à l'article 3.12 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres
moyens
employés
pour l'exécu-
tion

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et prévoir les modalités de leur emploi;

- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;
- (c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);
- (d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);
- (e) prescribing deductions for the purposes of subsection 3.3 (12);
- (f) prescribing information that shall be supplied under subsection 3.3 (25);
- (g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;
- (h) respecting proof of income for the purposes of section 3.10;



- (i) prescribing the method of service on the Crown of notices of support deduction orders in place of the method prescribed in subsection 3.3 (5);
- (j) providing that a support deduction order is not effective against the Crown unless a statement of particulars in the prescribed form is served with the notice of the order;
- (k) providing that a notice of a support deduction order served on the Crown shall be deemed to have been served, not on the day described in subsection 3.3 (6), but on the day that is the number of days specified in the regulation after the actual date of service, but the regulation shall not specify more than thirty days as the number of days.

13. Section 18 of the Act is repealed and the following substituted:

18. The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;
- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);
- d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);
- e) prescrire les retenues aux fins du paragraphe 3.3 (12);
- f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);
- g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;
- h) traiter des preuves relatives au revenu aux fins de l'article 3.10;



- i) prescrire le mode de signification à la Couronne des avis des ordonnances de retenue des aliments en remplacement du mode prescrit au paragraphe 3.3 (5);
- j) prévoir qu'une ordonnance de retenue des aliments n'a d'effet contre la Couronne que si un état détaillé dressé selon la formule prescrite est signifié avec l'avis de l'ordonnance;
- k) prévoir que l'avis d'une ordonnance de retenue des aliments signifié à la Couronne est réputé ne pas être signifié le jour prévu au paragraphe 3.3 (6), mais le jour qui est postérieur, du nombre de jours précisé dans le règlement, à la date effective de signification; le règlement ne doit toutefois pas préciser un nombre de jours supérieur à trente.

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*.

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

Short title

Titre abrégé

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment standards officer may make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

Employment standards officer may make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PART III

Commencement, Short Title

Commencement

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Family Support Plan Amendment Act, 1991*.

PARTIE III

Entrée en vigueur et titre abrégé

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en vigueur

20 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille*.

Titre abrégé

Bill 17

Projet de loi 17

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 17

(Chapter 5
Statutes of Ontario, 1991)

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

The Hon. H. Hampton
Attorney General

Projet de loi 17

(Chapitre 5
Lois de l'Ontario de 1991)

**Loi portant modification
des lois relatives à l'exécution
d'ordonnances alimentaires
et de garde d'enfants**

L'honorable H. Hampton
Procureur général



1st Reading	December 5th, 1990
2nd Reading	December 18th, 1990
3rd Reading	June 12th, 1991
Royal Assent	June 13th, 1991

1 ^{re} lecture	5 décembre 1990
2 ^e lecture	18 décembre 1990
3 ^e lecture	12 juin 1991
sanction royale	13 juin 1991

**An Act to amend the
Law related to the Enforcement of
Support and Custody Orders**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

*Support and Custody Orders Enforcement Act,
1985*

1. The *Support and Custody Orders Enforcement Act, 1985* is amended by striking out “debtor” and “debtor’s” wherever those words appear and replacing them in each case with “payor” or “payor’s” as is appropriate.

2.—(1) The definitions of “custody order” and “Director” in subsection 1 (1) of the Act are repealed and the following substituted:

“custody order” means a provision in an order of a court, in or out of Ontario, that is enforceable in Ontario for custody of a child, but not for access to a child, and includes such a provision in a separation agreement that is enforceable under the *Children’s Law Reform Act*; (“ordonnance de garde d’enfants”)

“Director” means the Director of the Family Support Plan. (“directeur”)

(2) The definition of “support order” in subsection 1 (1) of the Act is amended by striking out the last three lines of the definition and substituting “and includes such a provision in a domestic contract or paternity agreement that is enforceable under section 35 of the *Family Law Act, 1986*”.

(3) Subsection 1 (1) of the Act is amended by adding the following definitions:

“income source” means an individual, a corporation or other entity that owes periodic payment at regular intervals to a payor of,

(a) wages or salary,

**Loi portant modification
des lois relatives à l’exécution
d’ordonnances alimentaires et de
garde d’enfants**

SA MAJESTÉ, sur l’avis et avec le consentement de l’Assemblée législative de la province de l’Ontario, décrète ce qui suit :

PARTIE I

*Loi de 1985 sur l’exécution d’ordonnances
alimentaires et de garde d’enfants*

1 La *Loi de 1985 sur l’exécution d’ordonnances alimentaires et de garde d’enfants* est modifiée par substitution du terme «payeur» au terme «débiteur», partout où apparaît celui-ci.

2 (1) La définition du terme «directeur» et de l’expression «ordonnance de garde d’enfants» au paragraphe 1 (1) de la Loi est abrogée et remplacée par ce qui suit :

«directeur» Le directeur du Régime des obligations alimentaires envers la famille.
(«Director»)

«ordonnance de garde d’enfants» Disposition contenue dans une ordonnance émanant d’un tribunal de l’Ontario ou situé hors de cette compétence, qui est exécutoire en Ontario et qui a trait à la garde d’un enfant, mais non au droit de visite relatif à l’enfant. S’entend en outre de la disposition semblable contenue dans un accord de séparation qui est exécutoire aux termes de la *Loi portant réforme du droit de l’enfance*. («custody order»)

(2) La définition de l’expression «ordonnance alimentaire» au paragraphe 1 (1) de la Loi est modifiée par substitution aux quatre dernières lignes de la définition de ce qui suit : «S’entend en outre d’une disposition semblable contenue dans un contrat familial ou un accord de paternité qui est exécutoire aux termes de l’article 35 de la *Loi de 1986 sur le droit de la famille*».

(3) Le paragraphe 1 (1) de la Loi est modifié par adjonction des définitions suivantes :

«ordonnance conditionnelle» Ordonnance qui n’a aucun effet tant qu’elle n’est pas homologuée par un autre tribunal. S’entend en outre des ordonnances rendues en vertu du

- (b) a commission, bonus, piece-work allowance or other amount if the payment is not recoverable by the income source from the payor should the payor fail to earn the commission or bonus or fail to meet any production target,
- (c) a benefit under an accident, disability or sickness plan,
- (d) a disability, retirement or other pension,
- (e) an annuity,
- (f) income of a type described in the regulations; ("source de revenu")

"payor" means a person who is required to pay support under a support order; ("payeur")

"provisional order" means an order that has no effect until it is confirmed by another court and includes orders made under subsection 18 (2) of the *Divorce Act, 1985* (Canada), sections 3 and 7 of the *Reciprocal Enforcement of Maintenance Orders Act, 1982* and section 44 of the *Family Law Act, 1986*; ("ordonnance conditionnelle")

"regulations" means the regulations made under this Act; ("règlements")

"support deduction order" means an order requiring any income source that receives notice of the order to make payments to the Director in respect of the payor named in the order out of money owed by the income source to the payor. ("ordonnance de retenue des aliments")

(4) Section 1 of the Act is amended by adding the following subsection:

(1.1) An individual, a corporation or other entity continues to be an income source despite temporary interruptions in the periodic payments owed to a payor.

3. Subsection 2 (1) of the Act is repealed and the following substituted:

(1) There shall be a Director of the Family Support Plan who shall be appointed by the Lieutenant Governor in Council.

4. Section 3 of the Act is repealed and the following substituted:

3.—(1) A support or custody order may be filed with the Director's office.

paragraphe 18 (2) de la *Loi de 1985 sur le divorce* (Canada), des articles 3 et 7 de la *Loi de 1982 sur l'exécution réciproque d'ordonnances alimentaires* et de l'article 44 de la *Loi de 1986 sur le droit de la famille*. («provisional order»)

«ordonnance de retenue des aliments»
Ordonnance enjoignant à une source de revenu qui reçoit un avis de l'ordonnance de faire des versements au directeur, prélevés sur l'argent qu'elle doit au payeur, à l'égard du payeur nommé dans l'ordonnance. («support deduction order»)

«payeur» Personne qui est tenue de verser des aliments aux termes d'une ordonnance alimentaire. («payor»)

«règlements» Les règlements pris en application de la présente loi. («regulations»)

«source de revenu» Personne, physique ou morale, ou une autre entité qui doit faire des versements périodiques, à intervalles réguliers à un payeur :

- a) à titre de rémunération ou de salaire,
- b) à titre de commission, de prime, d'allocation à la pièce ou à un autre titre si la source de revenu ne peut recouvrer le versement du payeur si celui-ci devait ne pas se qualifier pour la commission ou la prime ou qu'il n'arrivait pas à atteindre un objectif de production,
- c) à titre de prestation versée aux termes d'un régime en raison d'un accident, d'une invalidité ou d'une maladie,
- d) à titre de pension d'invalidité ou de retraite ou d'une autre pension,
- e) à titre de rente,
- f) à titre de revenu d'un type visé par les règlements. («income source»)

(4) L'article 1 de la Loi est modifié par adjonction du paragraphe suivant :

(1.1) Une personne, physique ou morale, ou une autre entité continue d'être une source de revenu même s'il y a interruption temporaire des versements périodiques dus à un payeur.

3 Le paragraphe 2 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Le lieutenant-gouverneur en conseil nomme un directeur du Régime des obligations alimentaires envers la famille.

4 L'article 3 de la Loi est abrogé et remplacé par ce qui suit :

3 (1) L'ordonnance alimentaire ou de garde d'enfants peut être déposée au bureau du directeur.

Status as
income
source

Director of
the Family
Support Plan

Filing of
orders

Qualité de
source de
revenu

Directeur du
Régime des
obligations
alimentaires
envers la
famille

Dépôt des
ordonnances

Idem	(2) An order may be filed even if it has been previously withdrawn.	(2) Une ordonnance peut être déposée même si elle a été retirée auparavant.	Idem
Who may file	(3) Subject to subsections (6) and (8), a support order may be filed only by a person entitled to support under it or by a parent of a child entitled to support under it other than the payor.	(3) Sous réserve des paragraphes (6) et (8), l'ordonnance alimentaire ne peut être déposée que par une personne qui a droit aux aliments aux termes de l'ordonnance ou le parent, autre que le payeur, d'un enfant qui a droit aux aliments aux termes de l'ordonnance.	Personnes pouvant déposer une ordonnance
Idem	(4) A custody order may only be filed by a person entitled to custody under it.	(4) L'ordonnance de garde d'enfants ne peut être déposée que par la personne qui a droit à la garde aux termes de l'ordonnance.	Idem
Director to enforce support orders	(5) Every support order made by an Ontario court, other than a provisional order, shall state in its operative part that unless the order is withdrawn from the Director's office, it shall be enforced by the Director and that amounts owing under the order shall be paid to the Director, who shall pay them to the person to whom they are owed.	(5) L'ordonnance alimentaire rendue par un tribunal de l'Ontario, autre que l'ordonnance conditionnelle, doit contenir dans son dispositif la mention que l'ordonnance, à moins d'être retirée du bureau du directeur, est exécutée par le directeur et que les sommes dues aux termes de l'ordonnance sont versées au directeur, qui les verse à la personne à qui elles sont dues.	Exécution des ordonnances alimentaires par le directeur
Prompt filing	(6) The clerk or registrar of the court that makes an order described in subsection (5) shall file it with the Director's office promptly after it is signed unless the person entitled to receive support files with the court and the Director's office a written notice signed by the person stating that he or she does not want the order enforced by the Director.	(6) Le greffier du tribunal qui rend l'ordonnance visée au paragraphe (5) dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée, sauf si la personne qui a droit de recevoir les aliments dépose auprès du tribunal et au bureau du directeur un avis écrit et signé de sa main, selon lequel elle ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt rapide
Filing orders of other jurisdictions	(7) A support order made by a court outside Ontario that is received by the Ministry of the Attorney General or an Ontario court for enforcement in Ontario shall be filed with the Director's office promptly after it is received, unless it is accompanied by a notice signed by the person seeking enforcement stating that he or she does not want the order enforced by the Director.	(7) L'ordonnance alimentaire rendue par un tribunal situé hors de l'Ontario et reçue par le ministère du Procureur général ou un tribunal de l'Ontario en vue de l'exécution de l'ordonnance en Ontario est rapidement déposée au bureau du directeur après sa réception, sauf si l'ordonnance est accompagnée d'un avis signé par la personne qui en requiert l'exécution et selon lequel la personne ne veut pas que l'ordonnance soit exécutée par le directeur.	Dépôt des ordonnances rendues dans d'autres compétences
Filing by Minister	(8) If a person who is entitled to support under a support order has applied and is eligible for, or has received, a benefit under the <i>Family Benefits Act</i> or assistance under the <i>General Welfare Assistance Act</i> , the Minister of Community and Social Services may file the order in the Director's office, whether or not the notice referred to in subsection (6) or (7) has been given.	(8) Si une personne qui a droit aux aliments aux termes d'une ordonnance alimentaire a fait une demande en vue d'obtenir une prestation en vertu de la <i>Loi sur les prestations familiales</i> ou une aide en vertu de la <i>Loi sur l'aide sociale générale</i> , y est admissible ou l'a effectivement reçue, le ministre des Services sociaux et communautaires peut déposer l'ordonnance au bureau du directeur, que l'avis visé au paragraphe (6) ou (7) ait été donné ou non.	Dépôt par le ministre
Filing of past orders	(9) Promptly after a day to be named by proclamation of the Lieutenant Governor, support orders filed for enforcement under section 27 of the <i>Family Law Reform Act</i> , being chapter 152 of the Revised Statutes of Ontario, 1980, shall be filed in the Director's office by the clerks or registrars of the courts in which they are filed.	(9) Les ordonnances alimentaires déposées aux fins d'exécution aux termes de l'article 27 de la loi intitulée <i>Family Law Reform Act</i> , qui constitue le chapitre 152 des Lois refondues de l'Ontario de 1980, sont rapidement déposées, après le jour que le lieutenant-gouverneur fixe par proclamation, au bureau du directeur par les greffiers des tribunaux où elles sont déposées.	Dépôts d'ordonnances antérieures

Support
deduction
orders

3.1—(1) An Ontario court that makes a support order, which provides for payment of support on a periodic basis at regular intervals, shall also make a support deduction order for the payment of the periodic support ordered.

3.1 (1) Le tribunal de l'Ontario qui rend une ordonnance alimentaire, laquelle prévoit le versement périodique d'aliments, à intervalles réguliers, rend également une ordonnance de retenue des aliments pour le versement périodique des aliments qui a été ordonné.

Ordonnances
de retenue
des aliments

Exception

(2) A support deduction order shall not be made in respect of a provisional order.

(2) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle.

Exception

Required
information

(3) Before making a support deduction order, the court shall make such inquiries as it considers necessary to determine the names and addresses of each income source of the payor and the amounts paid to the payor by each income source.

(3) Avant de rendre une ordonnance de retenue des aliments, le tribunal fait les recherches qu'il estime nécessaires afin de déterminer les nom et adresse de chaque source de revenu du payeur et les sommes versées à celui-ci par chaque source de revenu.

Renseigne-
ments exigés

Consent
proceedings,
etc.

(4) If the support order is sought on consent or by way of motion for judgment or if the making of the support order is uncontested, the persons prescribed by the regulations shall give the court the particulars described in subsection (3) and such other information as may be prescribed.

(4) Si l'ordonnance alimentaire est demandée par consentement ou par voie de motion en vue d'obtenir un jugement, ou si l'ordonnance alimentaire est rendue sans faire l'objet d'une contestation, les personnes prescrites par les règlements donnent au tribunal les renseignements visés au paragraphe (3) et tout autre renseignement qui peut être prescrit.

Procédure
relative au
consentement

Order
mandatory

(5) A support deduction order shall be made even though the court cannot identify an income source in respect of the payor at the time the support order is made.

(5) Une ordonnance de retenue des aliments est rendue même si le tribunal ne peut identifier une source de revenu du payeur au moment où est rendue l'ordonnance alimentaire.

Ordonnance
obligatoire

Form of
support
deduction
order

3.2—(1) A support deduction order shall be in the form prescribed by the regulations.

3.2 (1) L'ordonnance de retenue des aliments est rédigée selon la formule prescrite par les règlements.

Formule de
l'ordonnance
de retenue
des aliments

Completion
of form, etc.

(2) The support deduction order shall be completed and signed by the court at the time the support order is made and shall be entered in the court records immediately after it is signed, even though the support order may not have been settled or signed at that time.

(2) L'ordonnance de retenue des aliments est remplie et signée par le tribunal au moment où est rendue l'ordonnance alimentaire et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée, même si l'ordonnance alimentaire peut ne pas avoir été réglée ou signée à ce moment-là.

Rédaction de
la formule

Prompt filing

(3) The clerk or registrar of the court that makes a support deduction order shall file it with the Director's office promptly after it is signed.

(3) Le greffier du tribunal qui rend l'ordonnance de retenue des aliments dépose rapidement l'ordonnance au bureau du directeur après qu'elle est signée.

Dépôt rapide

Persons
bound

3.3—(1) A support deduction order binds every income source who is served by the Director's office with a notice of the order whether or not the income source is named in the order.

3.3 (1) L'ordonnance de retenue des aliments lie les sources de revenu auxquelles le bureau du directeur signifie un avis de l'ordonnance, qu'elles soient nommées ou non dans l'ordonnance.

Personnes
liées

Enforcement
by Director

(2) The Director shall enforce a support deduction order in the manner, if any, that appears practical to the Director and shall pay the amounts collected under the order to the person to whom they are owed.

(2) Le directeur exécute une ordonnance de retenue des aliments de la façon, s'il en est, qui lui semble pratique et il verse les sommes perçues en vertu de l'ordonnance à la personne à qui elles sont dues.

Exécution par
le directeur

Idem

(3) No person other than the Director shall enforce a support deduction order.

(3) Seul le directeur exécute une ordonnance de retenue des aliments.

Idem

When
enforcement
ends

(4) The Director shall enforce a support deduction order, subject to any suspension order or variation, until the support order to which it relates is terminated and there are no arrears owing and despite the fact that the support order to which it relates has not been filed in or has been withdrawn from the Director's office.

Idem

(5) The Director's office may serve a notice of a support deduction order by sending the notice by prepaid ordinary mail addressed to each income source from whom it is seeking payment, and new notices may be served when the amount to be paid under a support order changes or arrears are owing.

Idem

(6) The notice shall be deemed to have been served on the individual, corporation or other entity to whom it was mailed on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Notice to
payor

(7) The Director shall send a copy of the notice to the payor by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

First
payment

(8) An income source shall begin making payments to the Director's office not later than the day the first payment is to be paid to the payor that falls at least fourteen days after the day on which the income source is served with the notice.

Payor's duty
to pay

(9) Until an income source begins deducting support payments in respect of a support deduction order or if payments by an income source are interrupted or terminated, the payor shall pay the amounts owing under the support order to the Director or, if the support order has been withdrawn, to the person entitled to receive support.

Arrears

(10) The Director may include in the amount required to be deducted and paid to the Director's office any amount in arrears under a support order.

Maximum
deductions

(11) Subject to subsection (13), the total amount deducted in respect of a support order shall not exceed 50 per cent of the net amount owed by the income source to the payor.

Definition

(12) For the purposes of this section, "net amount" means the total amount owed by the income source to the payor at the time payment is to be made to the Director's

Fin de
l'exécution

(4) Le directeur exécute une ordonnance de retenue des aliments, sous réserve d'une ordonnance de suspension ou d'une modification, jusqu'à ce qu'ait été révoquée l'ordonnance alimentaire à laquelle elle se rapporte, qu'il n'y ait plus d'arriéré à payer et en dépit du fait que l'ordonnance alimentaire à laquelle elle se rapporte n'a pas été déposée au bureau du directeur ou en a été retirée.

Idem

(5) Le bureau du directeur peut signifier un avis de l'ordonnance de retenue des aliments en envoyant l'avis par courrier ordinaire, franc de port, à chaque source de revenu de qui il cherche à obtenir des versements. De nouveaux avis peuvent être signifiés lorsque la somme à payer aux termes d'une ordonnance alimentaire est modifiée ou que des arriérés sont exigibles.

Idem

(6) Sauf s'il est démontré le contraire, l'avis est réputé avoir été signifié à la personne, physique ou morale, ou une autre entité à qui il a été envoyé le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Avis au
payeur

(7) Le directeur envoie au payeur une copie de l'avis par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Premier
versement

(8) Une source de revenu commence à faire des versements au bureau du directeur au plus tard le jour où le premier versement doit être fait au payeur et qui tombe au moins quatorze jours après le jour où la source de revenu a reçu signification de l'avis.

Obligation de
payer du
payeur

(9) Tant qu'une source de revenu n'a pas commencé à retenir les versements d'aliments aux termes d'une ordonnance de retenue des aliments ou si les versements d'une source de revenu sont interrompus ou prennent fin, le payeur verse les sommes dues aux termes de l'ordonnance alimentaire au directeur ou, si l'ordonnance alimentaire a été retirée, à la personne qui a droit aux aliments.

Arriéré

(10) Le directeur peut inclure dans la somme qui doit être retenue et versée au bureau du directeur toute somme représentant un arriéré aux termes d'une ordonnance alimentaire.

Retenue
maximale

(11) Sous réserve du paragraphe (13), la somme totale retenue aux termes d'une ordonnance alimentaire ne doit pas dépasser 50 pour cent de la somme nette que doit la source de revenu au payeur.

Définition

(12) Pour l'application du présent article, l'expression «somme nette» s'entend de la somme totale que doit la source de revenu au payeur au moment où le versement doit être

office, less the total of the following deductions:

1. Income Tax.
2. Canada Pension Plan.
3. Unemployment Insurance.
4. Union dues.
5. Such other deductions as may be prescribed by the regulations.

Higher
maximum
payment

(13) Subject to subsection (15), a court when it makes a support deduction order or on the motion of the Director may order that one or more income sources pay an amount that is higher than the amount described in subsection (11) and such an income source shall pay to the Director's office the amount set out in the order.

Idem

(14) An order shall not be made under subsection (13) unless the payor receives income from at least two sources (whether or not the sources are "income sources" as defined in section 1).

Idem

(15) An income source is not required to pay to the Director's office more than the net amount that the income source owes to the payor at the time of the payment.

Medical
insurance,
etc.

(16) Despite any other provision of this Act, no deduction shall be made under a support deduction order in respect of amounts owing to a payor as reimbursement for expenses covered by a medical, health, dental or hospital insurance contract or plan.

Person not
income
source

(17) If an individual, corporation or other entity served with notice is not an income source of the payor named in the notice, the individual, corporation or other entity shall give written notice in the prescribed form of that fact to the Director's office within ten days following the service of the notice.

Dispute

(18) The Director or the income source, individual, corporation or other entity, as the case may be, may, on notice to the other, bring a motion to the court that made a support deduction order or to the appropriate court under subsection 3.8 (9) to determine,

- (a) whether the income source has failed to comply with the order;
- (b) whether the amount the income source is deducting and paying to the Director's office under the order is correct; or

fait au bureau du directeur, moins le total des retenues suivantes :

1. Celle de l'impôt sur le revenu.
2. Celle du Régime de pensions du Canada.
3. Celle de l'assurance-chômage.
4. Celle des cotisations syndicales.
5. Les autres retenues pouvant être prescrites par les règlements.

Versement
maximal plus
élevé

(13) Sous réserve du paragraphe (15), le tribunal peut, lorsqu'il rend une ordonnance de retenue des aliments ou sur présentation d'une motion du directeur, ordonner qu'une ou plusieurs sources de revenu paient une somme plus élevée que la somme prévue au paragraphe (11) et que la ou les sources de revenu versent au bureau du directeur la somme fixée dans l'ordonnance.

Idem

(14) Une ordonnance ne doit pas être rendue aux termes du paragraphe (13) à moins que le payeur ne reçoive un revenu d'au moins deux sources (peu importe que ces sources soient ou non des «sources de revenu» telles qu'elles sont définies à l'article 1).

Idem

(15) Une source de revenu n'est pas tenue de verser au bureau du directeur une somme plus élevée que la somme nette qu'elle doit au payeur au moment du versement.

Assurances
médicales

(16) Malgré toute autre disposition de la présente loi, aucune retenue ne doit être faite aux termes d'une ordonnance de retenue des aliments relativement aux sommes dues au payeur à titre de remboursement de dépenses couvertes par un régime ou un contrat d'assurance médicale, santé, dentaire ou pour services hospitaliers.

Personne qui
n'est pas une
source de
revenu

(17) Si une personne, physique ou morale, ou une autre entité à qui un avis est signifié n'est pas une source de revenu du payeur nommé dans l'avis, elle donne au bureau du directeur, dans les dix jours qui suivent la signification de l'avis, un avis écrit à cet effet, rédigé selon la formule prescrite.

Conflit

(18) Le directeur ou la source de revenu, la personne, physique ou morale, ou une autre entité selon le cas, peut, sur avis à l'autre, présenter une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié aux termes du paragraphe 3.8 (9) pour déterminer, selon le cas :

- a) si la source de revenu n'a pas observé l'ordonnance;
- b) si la somme que la source de revenu retient et verse au bureau du directeur aux termes de l'ordonnance est correcte;

(c) whether the individual, corporation or other entity is an income source.

c) si la personne, physique ou morale, ou une autre entité est une source de revenu.

Idem

(19) In a motion under subsection (18), the court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

(19) Dans le cadre d'une motion prévue au paragraphe (18), le tribunal procède de façon sommaire afin de régler la question et rend l'ordonnance qu'il estime opportune dans les circonstances.

Idem

Idem

(20) A motion shall not be brought by an income source under clause (18) (a) or (b) unless the income source has given written particulars of the proposed motion to the Director at least fourteen days before serving the Director with notice of the motion.

(20) La source de revenu ne peut présenter de motion aux termes de l'alinéa (18) a) ou b) sans avoir donné par écrit au directeur des détails sur la motion en question au moins quatorze jours avant la signification de l'avis de motion au directeur.

Idem

Idem

(21) A motion shall not be brought under clause (18) (c) by an individual, corporation or other entity, until at least fourteen days after the date that notice was given under subsection (17).

(21) Une personne, physique ou morale, ou une autre entité ne peut présenter de motion aux termes de l'alinéa (18) c) avant l'expiration d'un délai d'au moins quatorze jours après la date à laquelle l'avis a été donné aux termes du paragraphe (17).

Idem

Idem

(22) Subsection (21) does not apply to the Director.

(22) Le paragraphe (21) ne s'applique pas au directeur.

Idem

Liability

(23) An income source is liable to pay to the Director's office any amount that it failed without proper reason to deduct and pay to the office after receiving notice to deduct and pay and, in a motion under subsection (18), the court may order the income source to pay the amount that it ought to have deducted and paid to the Director's office.

(23) La source de revenu est responsable du versement au bureau du directeur de toute somme qu'elle n'a pas, sans motif valable, retenue et n'a pas versée au bureau après avoir reçu un avis lui enjoignant de retenir et de verser cette somme et, sur une motion prévue au paragraphe (18), le tribunal peut ordonner à la source de revenu de verser la somme qu'elle aurait dû retenir et verser au bureau du directeur.

Responsabilité

Other enforcement

(24) In addition to any other method available to enforce an order in a civil proceeding, any order made under subsection (19) or (23) may be enforced under this Act in the same manner and with the same remedies as a support order.

(24) Outre les autres moyens disponibles pour exécuter une ordonnance dans une instance civile, les ordonnances rendues aux termes du paragraphe (19) ou (23) peuvent être exécutées en vertu de la présente loi de la même façon et avec les mêmes recours que pour une ordonnance alimentaire.

Autres moyens d'exécution

Duty to inform

(25) Within ten days following the termination or beginning of an interruption of payments by an income source to a payor, both the income source and the payor shall give written notice to the Director's office of the termination or interruption together with such other information as may be required by the regulations.

(25) Dans les dix jours qui suivent la fin ou le début d'une interruption des versements que la source de revenu fait au payeur, la source de revenu et le payeur donnent au bureau du directeur un avis écrit de la fin ou de l'interruption des versements, accompagné des autres renseignements que peuvent exiger les règlements.

Obligation d'informer

Idem

(26) If notice has been or should have been given under subsection (25),

(26) Si un avis a été donné ou aurait dû l'être aux termes du paragraphe (25) :

Idem

(a) the payor and the income source, within ten days following the resumption of payments that have been interrupted, shall give written notice to the Director's office of the resumption;

a) le payeur et la source de revenu, dans les dix jours suivant la reprise des versements qui ont été interrompus, donnent au bureau du directeur un avis écrit de la reprise des versements;

(b) the payor, within ten days of beginning employment with another income source or of becoming entitled to payments from another income source, shall give written notice to the Director's office of the new employment or

b) le payeur, dans les dix jours après qu'il a commencé un emploi auprès d'une autre source de revenu ou après qu'il a droit à des versements d'une autre source de revenu, donne au bureau du directeur un avis écrit de

the entitlement and of the name and address of the income source.

son nouvel emploi ou du droit ainsi que du nom et de l'adresse de la source de revenu.

Information
confidential

(27) Information about a payor obtained by an income source or an individual, corporation or other entity believed to be an income source as a result of the application of this section shall not be disclosed by the income source or any director, officer, employee or agent of the income source or anyone believed to be an income source or any director, officer, employee or agent thereof, except for the purposes of complying with a support deduction order or this Act.

(27) Les renseignements sur le payeur obtenus par une source de revenu ou une personne, physique ou morale, ou une autre entité que l'on croit être une source de revenu en conséquence de l'application du présent article ne doivent pas être divulgués par la source de revenu ou par qui que ce soit que l'on croit être une source de revenu ni par leur administrateur, dirigeant, employé ou mandataire, sauf dans le but de se conformer à une ordonnance de retenue des aliments ou à la présente loi.

Renseigne-
ments confi-
dentiels

Priority

(28) Despite any other Act, a support deduction order has the same priority over other judgment debts as a support order has under the *Creditors' Relief Act* and all support orders and support deduction orders rank equally with each other.

(28) Malgré toute autre loi, l'ordonnance de retenue des aliments a la même priorité sur d'autres créances constatées par jugement qu'a l'ordonnance alimentaire aux termes de la *Loi sur le désintéressement des créanciers* et les ordonnances alimentaires ainsi que celles de retenue des aliments ont le même rang.

Priorité

Idem

(29) If an income source is required to make payments to the Director's office under a support deduction order and the income source receives a garnishment notice related to the same support obligation, the income source shall make full payment under the support deduction order and the garnishment shall be of no effect until the income source has received notice from the Director that the support deduction order is suspended or terminated.

(29) Si une source de revenu est tenue de faire des versements au bureau du directeur aux termes d'une ordonnance de retenue des aliments et qu'elle reçoit un avis de saisie-arrêt relatif à la même obligation alimentaire, la source de revenu doit verser l'intégralité de la somme due aux termes de l'ordonnance de retenue des aliments et la saisie-arrêt n'a aucun effet tant que la source de revenu n'a pas été avisée par le directeur de la suspension ou de la révocation de l'ordonnance de retenue des aliments.

Idem

Conflict with
other Acts

(30) A support deduction order may be enforced despite any provision in any other Act protecting from attachment or other process for the enforcement of a judgment debt any periodic payment owed by an income source to a payor.

(30) L'ordonnance de retenue des aliments peut être exécutée malgré toute disposition d'une autre loi qui protège d'une saisie ou d'un autre acte de procédure visant l'exécution d'une créance constatée par jugement tout versement périodique que doit la source de revenu au payeur.

Incompati-
bilité avec
d'autres lois

Limitation

(31) A support deduction order is effective against the Crown only in respect of amounts payable on behalf of the administrative unit served with notice of the support deduction order to the payor named in the notice.

(31) L'ordonnance de retenue des aliments n'a d'effet contre la Couronne qu'à l'égard des sommes payables pour le compte du service administratif qui a reçu signification de l'avis de l'ordonnance de retenue des aliments au payeur désigné dans l'avis.

Restriction

Definition

(32) In subsection (31), "administrative unit" means a Ministry of the Government of Ontario, a Crown agency within the meaning of the *Crown Agency Act* or the Office of the Assembly under the *Legislative Assembly Act*.

(32) Au paragraphe (31), «service administratif» s'entend d'un ministère du gouvernement de l'Ontario, d'un organisme de la Couronne au sens de la *Loi sur les organismes de la Couronne* ou du Bureau de l'Assemblée, au sens de la *Loi sur l'Assemblée législative*.

Définition

Welfare
benefits

(33) A support deduction order shall not be used to make deductions from any amount payable to a payor as a benefit under the *Family Benefits Act* or as assistance under the *General Welfare Assistance Act*.

(33) L'ordonnance de retenue des aliments ne doit pas être utilisée à des fins de retenue sur toute somme payable à un payeur à titre de prestation prévue par la *Loi sur les prestations familiales* ou à titre d'aide prévue par la *Loi sur l'aide sociale générale*.

Prestations
d'aide sociale

Suspension
of support
deduction
order

3.4—(1) A court that makes a support deduction order may immediately make an order to suspend its operation or the court may, on motion, subsequently suspend its operation.

Conditions

(2) The court may suspend a support deduction order under subsection (1) or subsection 3.8 (6) only if,

- (a) it finds that it would be unconscionable, having regard to all of the circumstances, to require the payor to make support payments through a support deduction order; or
- (b) the parties to the support order agree that they do not want support payments collected through a support deduction order and the court requires the payor to post such security as it considers adequate and in accordance with the regulations.

Agency's
consent
required

(3) If the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986* or if there are arrears owing to the agency from a past assignment, the court shall not suspend the support deduction order in the circumstances described in clause (2) (b) without the agency's consent.

Unconscion-
able, deter-
mination

(4) The following shall not be considered by a court in determining whether it would be unconscionable to require a payor to make support payments through a support deduction order:

- 1. The fact that the payor has demonstrated a good payment history in respect of his or her debts, including support obligations.
- 2. The fact that the payor has had no opportunity to demonstrate voluntary compliance in respect of support obligations.
- 3. The fact that the parties have agreed to the suspension of the support deduction order.
- 4. The fact that there are grounds upon which a court might find that the amount payable under the support order should be varied.

Security

(5) For the purposes of clause (2) (b), security shall be in a minimum amount equal to the support payable for four months and the security shall be in money or in such other form as may be provided for in the regulations.

3.4 (1) Le tribunal qui rend une ordonnance de retenue des aliments peut immédiatement rendre une ordonnance qui suspend l'application de l'ordonnance de retenue des aliments ou il peut en suspendre l'application par la suite, sur présentation d'une motion.

Suspension de
l'ordonnance
de retenue
des aliments

Conditions

(2) Le tribunal ne peut suspendre une ordonnance de retenue des aliments en vertu du paragraphe (1) ou 3.8 (6) que si l'une des conditions suivantes est remplie :

- a) il conclut qu'il serait déraisonnable, en tenant compte de toutes les circonstances, d'obliger le payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments;
- b) les parties à l'ordonnance alimentaire ont convenu qu'elles ne voulaient pas que les aliments soient perçus au moyen d'une ordonnance de retenue des aliments et le tribunal exige que le payeur fournisse la sûreté qu'il estime appropriée, conformément aux règlements.

Consentement
de l'orga-
nisme exigé

(3) Si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille* ou si un arriéré provenant d'une cession antérieure est dû à l'organisme, le tribunal ne doit pas suspendre l'ordonnance de retenue des aliments dans les circonstances prévues à l'alinéa (2) b) sans le consentement de l'organisme.

Détermina-
tion de ce qui
est déraison-
nable

(4) Le tribunal ne doit pas tenir compte des éléments suivants lorsqu'il décide s'il serait déraisonnable d'obliger un payeur à verser des aliments au moyen d'une ordonnance de retenue des aliments :

- 1. Le fait que les antécédents du payeur quant au paiement de ses dettes, y compris ses obligations alimentaires, sont bons.
- 2. Le fait que le payeur n'a pas eu l'occasion de démontrer son respect volontaire à l'égard des obligations alimentaires.
- 3. Le fait que les parties ont convenu de la suspension de l'ordonnance de retenue des aliments.
- 4. Le fait qu'il existe des motifs qui pourraient permettre à un tribunal de conclure que la somme à payer aux termes de l'ordonnance alimentaire devrait être modifiée.

Sûreté

(5) Pour l'application de l'alinéa (2) b), le montant minimal de la sûreté est égal à la somme des aliments payables pour quatre mois. La sûreté est versée en argent ou sous toute autre forme qui peut être prévue par les règlements.

When Director a party	(6) The Director is not a party to a motion brought to suspend the operation of a support deduction order; however, if the payor brings a motion under subsection 3.8 (6), the Director must also be served with notice of the motion and may be added as a party.	(6) Le directeur n'est pas partie à une motion présentée en vue de faire suspendre l'application d'une ordonnance de retenue des aliments. Toutefois, si le payeur présente une motion en vertu du paragraphe 3.8 (6), le directeur doit également recevoir signification de l'avis de motion et il peut être ajouté comme partie.	Le directeur est partie à une motion
Completion of form, etc.	(7) A suspension order shall be completed and signed by the court at the time it is made and shall be entered in the court records immediately after it is signed.	(7) L'ordonnance de suspension est remplie et signée par le tribunal au moment où elle est rendue et elle est consignée dans les dossiers du tribunal immédiatement après avoir été signée.	Rédaction de la formule
Prompt filing	(8) The clerk or registrar of the court that makes a suspension order shall file it with the Director's office promptly after it is made.	(8) Le greffier du tribunal qui rend l'ordonnance de suspension dépose rapidement l'ordonnance au bureau du directeur après qu'elle est rendue.	Dépôt rapide
Form and effective date	(9) A suspension order shall be in the form prescribed by the regulations and takes effect only when it is filed in the Director's office and every income source affected by the order has received notice of the suspension.	(9) L'ordonnance de suspension est rédigée selon la formule prescrite par les règlements et n'entre en vigueur que lorsqu'elle est déposée au bureau du directeur et que toutes les sources de revenu visées par l'ordonnance ont reçu avis de la suspension.	Formule et entrée en vigueur
Termination of suspension order	(10) A suspension order is automatically terminated if the payor fails to post security of the type or within the time period set out in the suspension order or if the payor fails to comply with the support order.	(10) L'ordonnance de suspension est automatiquement révoquée si le payeur ne fournit pas de sûreté selon le type exigé ou dans le délai fixé par l'ordonnance de suspension, ou si le payeur ne se conforme pas à l'ordonnance alimentaire.	Révocation de l'ordonnance de suspension
Effect of termination	(11) When a suspension order is terminated under subsection (10), the support deduction order is reinstated and the Director may immediately realize on any security that was posted.	(11) Lorsque l'ordonnance de suspension est révoquée aux termes du paragraphe (10), l'ordonnance de retenue des aliments est remise en vigueur et le directeur peut immédiatement réaliser toute sûreté fournie.	Effet de la révocation
Support order not affected	(12) An order suspending the operation of a support deduction order does not affect the payor's obligations under the support order nor does it affect any other means of enforcing the support order.	(12) L'ordonnance qui suspend l'application d'une ordonnance de retenue des aliments n'a pas d'effet sur les obligations qu'a le payeur aux termes de l'ordonnance alimentaire ni sur les autres moyens d'exécution de l'ordonnance alimentaire.	Absence d'effet sur l'ordonnance alimentaire
Disputes, etc., by payor	3.5—(1) A payor, on motion in the court that made the support deduction order, or in the appropriate court on a motion under subsection 3.8 (6), (a) may dispute the amount being deducted by an income source under a support deduction order if he or she is of the opinion that because of a mistake of fact more is being deducted than is required under this Act; (b) may dispute whether he or she has defaulted in paying support after a suspension order has been made under section 3.4; (c) may seek relief regarding the amount which is being deducted under a sup-	3.5 (1) Le payeur, qui présente une motion devant le tribunal qui a rendu l'ordonnance de retenue des aliments ou devant le tribunal approprié dans le cadre d'une motion introduite en vertu du paragraphe 3.8 (6), peut : a) contester la somme retenue par une source de revenu aux termes de l'ordonnance de retenue des aliments s'il estime que, en raison d'une erreur de fait, une somme supérieure à celle qui doit être retenue aux termes de la présente loi est retenue; b) contester son défaut de verser des aliments après qu'une ordonnance de suspension a été rendue en vertu de l'article 3.4; c) demander un redressement concernant la somme qui est retenue aux termes d'une ordonnance de retenue des ali-	Contestations du payeur

port deduction order for arrears under a support order.

Dispute over entitlement

(2) On a motion referred to in subsection (1), the payor shall not dispute the entitlement of a person to support under a support order.

Necessary party

(3) The Director is a necessary party to a motion referred to in subsection (1).

Power of court

(4) The court shall determine the issue in a summary manner and make such order as it considers appropriate in the circumstances.

Idem

(5) On a motion under clause (1) (c), the payor shall be presumed to have the ability to pay the amount being deducted for arrears and the court may vary the amount being deducted only if it is satisfied that the payor is unable for valid reasons to pay that amount but this does not affect the accruing of arrears.

Variation of support deduction order

3.6—(1) Subject to section 3.5, a court shall not vary the amount to be paid under a support deduction order unless the support order to which it relates is varied.

New order

(2) When a support order is varied to provide for or to vary periodic payments at regular intervals, a support deduction order shall be made to reflect the variation.

Exception

(3) A support deduction order shall not be made in respect of a provisional order that varies a support order.

No opting out

3.7 An agreement by the parties to a support order to vary a support deduction order and any agreement or arrangement to avoid or prevent enforcement of a support deduction order are of no effect.

Old orders, domestic contracts, paternity agreements

3.8—(1) This section applies only to support orders filed with the Director's office that are,

(a) support orders made by an Ontario court before this section comes into force;

(b) domestic contracts and paternity agreements that are enforceable under section 35 of the *Family Law Act*, 1986.

Enforcement

(2) The Director may enforce payment under a support order to which this section applies as if a support deduction order had been made if the Director considers it advisable to do so and the Director shall enforce payment if the person entitled to receive sup-

ports, en vue du paiement d'un arriéré exigible aux termes d'une ordonnance alimentaire.

(2) Sur une motion mentionnée au paragraphe (1), le payeur ne peut contester le droit d'une personne aux aliments aux termes d'une ordonnance alimentaire.

(3) Le directeur est une partie essentielle à une motion mentionnée au paragraphe (1).

(4) Le tribunal règle la question de façon sommaire et rend l'ordonnance qu'il estime opportune dans les circonstances.

(5) À la présentation d'une motion en vertu de l'alinéa (1) c), le payeur est considéré comme étant en mesure de verser la somme retenue pour le paiement d'un arriéré. Le tribunal ne peut modifier cette somme que s'il est convaincu que le payeur n'est pas en mesure, pour des motifs valables, de verser cette somme. Toutefois, ce qui précède n'a pas d'incidence sur l'accumulation de l'arriéré.

3.6 (1) Sous réserve de l'article 3.5, le tribunal ne doit pas modifier la somme à verser aux termes de l'ordonnance de retenue des aliments, sauf si l'ordonnance alimentaire à laquelle elle se rapporte est modifiée.

(2) Lorsqu'une ordonnance alimentaire est modifiée en vue de prévoir ou de modifier des versements périodiques à intervalles réguliers, une ordonnance de retenue des aliments est rendue pour faire état de la modification.

(3) Une ordonnance de retenue des aliments ne doit pas être rendue à l'égard d'une ordonnance conditionnelle qui modifie une ordonnance alimentaire.

3.7 L'accord conclu entre les parties à l'ordonnance alimentaire et visant à modifier l'ordonnance de retenue des aliments, ainsi qu'un accord ou une entente visant à éviter ou à empêcher l'exécution de l'ordonnance de retenue des aliments ne sont pas valides.

3.8 (1) Le présent article ne s'applique qu'aux ordonnances alimentaires déposées auprès du bureau du directeur qui sont :

a) des ordonnances alimentaires rendues par un tribunal de l'Ontario avant l'entrée en vigueur du présent article;

b) des contrats familiaux et des accords de paternité qui sont exécutoires en vertu de l'article 35 de la *Loi de 1986 sur le droit de la famille*.

(2) Le directeur peut exécuter les versements prévus aux termes d'une ordonnance alimentaire à laquelle s'applique le présent article comme si une ordonnance de retenue des aliments avait été rendue, s'il estime qu'il est opportun de le faire. Le directeur exécute

Contestation du droit aux aliments

Partie essentielle

Pouvoir du tribunal

Idem

Modification de l'ordonnance de retenue des aliments

Nouvelle ordonnance

Exception

Obligation de se conformer à l'ordonnance de retenue des aliments

Anciennes ordonnances, anciens contrats familiaux et accords de paternité

Exécution

port under the order requests enforcement under this section and the Director considers it practical to do so.

Notice

(3) Before enforcing payments as provided in subsection (2), the Director shall give notice to the payor and the notice may be given by prepaid ordinary mail at his or her last address as shown on the records of the Director's office.

Idem

(4) A notice given by mail shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.

Deemed support deduction order

(5) A support deduction order shall be deemed to have been made by the appropriate court thirty days after the notice is served on the payor.

Suspension

(6) The payor may, within thirty days of being served with the notice, commence a motion under section 3.4 in the appropriate court for a suspension of a support deduction order described in subsection (5).

Delay of enforcement

(7) If a motion has been brought under subsection (6), a support deduction order described in subsection (5) does not come into force until the motion has been determined.

No form required

(8) Section 3.2 does not apply to an order described in subsection (5).

Appropriate court

(9) For the purposes of support orders to which this section applies, the appropriate court is the court that made the support order or, if the order was not made by a court, the Ontario Court (Provincial Division) or the Unified Family Court.

Termination of support obligation

3.9—(1) Each of the parties to a support order shall give to the Director notice of the termination of a support obligation under the order, in the manner and at such time as may be provided in the regulations, if the support order is filed in the Director's office or if a support deduction order has been made in respect of the support obligation.

Idem

(2) If the parties to a support order agree in the manner prescribed by the regulations or if the support obligation is stated in a support order to terminate on a set calendar date, the Director shall cease enforcement of a support obligation that has terminated; however, if the support order has been assigned to an agency described in subsection 33 (3) of the *Family Law Act, 1986*, the Director shall not cease enforcement of the support obligation without the agency's consent.

les versements si la personne qui a droit aux aliments en vertu de l'ordonnance en fait la demande en vertu du présent article et que le directeur estime qu'il est pratique de le faire.

Avis

(3) Avant d'exécuter les versements tel que le prévoit le paragraphe (2), le directeur avise le payeur. L'avis peut être envoyé par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur.

Idem

(4) Sauf s'il est démontré le contraire, l'avis envoyé par courrier est réputé avoir été signifié au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.

Ordonnance de retenue des aliments réputée rendue

(5) L'ordonnance de retenue des aliments est réputée avoir été rendue par le tribunal approprié trente jours après que l'avis est signifié au payeur.

Suspension

(6) Le payeur peut, dans les trente jours après que l'avis lui est signifié, présenter une motion aux termes de l'article 3.4 devant le tribunal approprié pour obtenir la suspension de l'ordonnance de retenue des aliments visée au paragraphe (5).

Retard de l'exécution

(7) Si une motion est introduite en vertu du paragraphe (6), l'ordonnance de retenue des aliments visée au paragraphe (5) n'entre pas en vigueur tant qu'une décision concernant la motion n'a pas été prise.

Aucune formule exigée

(8) L'article 3.2 ne s'applique pas à l'ordonnance visée au paragraphe (5).

Tribunal approprié

(9) Aux fins des ordonnances alimentaires auxquelles s'applique le présent article, le tribunal approprié est celui qui a rendu l'ordonnance alimentaire ou, si l'ordonnance n'a pas été rendue par un tribunal, la Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille.

Fin de l'obligation alimentaire

3.9 (1) Si l'ordonnance alimentaire est déposée au bureau du directeur ou si une ordonnance de retenue des aliments a été rendue relativement à l'obligation alimentaire, chaque partie à une ordonnance alimentaire avise le directeur de la fin d'une obligation alimentaire découlant de l'ordonnance alimentaire, de la façon et au moment que peuvent prévoir les règlements.

Idem

(2) Si les parties à une ordonnance alimentaire s'entendent de la manière prescrite par les règlements ou si le moment auquel l'obligation alimentaire prend fin correspond à une date fixée dans une ordonnance alimentaire, le directeur cesse d'exécuter l'obligation alimentaire qui a pris fin. Toutefois, si l'ordonnance alimentaire a été cédée à un organisme prévu au paragraphe 33 (3) de la *Loi de 1986 sur le droit de la famille*, le directeur ne doit pas cesser d'exécuter l'obligation

Disputes	(3) If the parties to the support order do not agree or if the agency does not consent, the court that made the support order shall, on the motion of a party to the order or of the agency, decide if the support obligation has terminated.	alimentaire sans le consentement de l'organisme.	Conflits
Order to repay	(4) A court that finds that a support obligation has terminated may order repayment in whole or in part from a person who received support after the obligation was terminated if the court is of the opinion that the person ought to have notified the Director that the support obligation had terminated.	(4) Le tribunal qui conclut qu'une obligation alimentaire a pris fin peut ordonner à une personne qui a reçu des aliments après que l'obligation a pris fin de faire un remboursement complet ou partiel s'il estime que cette personne aurait dû aviser le directeur du fait que l'obligation alimentaire avait pris fin.	Ordonnance de rembourser
Idem	(5) In determining whether to make an order under subsection (4), the court shall consider the circumstances of each of the parties to the support order.	(5) Lorsqu'il décide de rendre ou non une ordonnance en vertu du paragraphe (4), le tribunal tient compte de la situation de chacune des parties à l'ordonnance alimentaire.	Idem
Continued enforcement	(6) The Director shall continue to enforce the support obligation in the manner, if any, that appears practical to the Director until he or she receives a copy of the court's decision terminating the support obligation.	(6) Le directeur continue d'exécuter l'obligation alimentaire de la façon, s'il en est, qui lui semble pratique et ce, jusqu'à ce qu'il reçoive une copie de la décision du tribunal mettant fin à l'obligation alimentaire.	L'exécution continue
Idem	(7) Despite the termination of a support obligation, the Director shall continue to enforce the support obligation in respect of any arrears which have accrued, in the manner, if any, that appears practical to the Director.	(7) Malgré la fin d'une obligation alimentaire, le directeur continue d'exécuter l'obligation alimentaire à l'égard des arriérés accumulés, de la manière, s'il en est, qui lui semble pratique.	Idem
Notice to income sources	(8) When the Director's duty to enforce a support obligation which is subject to a support deduction order ceases, the Director shall give written notice to each income source affected by the support deduction order of any change in the amount to be paid.	(8) Lorsque son obligation d'exécuter une obligation alimentaire qui est liée à une ordonnance de retenue des aliments se termine, le directeur donne à chaque source de revenu concernée par l'ordonnance de retenue des aliments un avis écrit de toute modification de la somme à verser.	Avis aux sources de revenu
Idem	(9) A notice under subsection (8) may be given by prepaid ordinary mail to the last address of the income source as shown on the records of the Director's office.	(9) L'avis visé au paragraphe (8) peut être donné par courrier ordinaire, franc de port, à la dernière adresse de la source de revenu indiquée dans les dossiers du bureau du directeur.	Idem
Director not party	(10) The Director is not a party to any proceeding to determine the entitlement of any person to support under a support order or to a motion to decide whether a support obligation has terminated.	(10) Le directeur n'est pas partie à une instance visant à déterminer si une personne a droit aux aliments aux termes d'une ordonnance alimentaire ni à une motion visant à établir si une obligation alimentaire a pris fin.	Le directeur n'est pas partie à une instance
Financial statements	3.10 —(1) The Director may require a payor who is in default under a support order or in respect of whom a support deduction order is being enforced to complete and deliver to the Director's office a financial statement in the form prescribed by the regulations together with such proof of income as may be required by the regulations.	3.10 (1) Le directeur peut exiger que le payeur, qui est en défaut aux termes d'une ordonnance alimentaire ou à l'égard de qui une ordonnance de retenue des aliments est exécutée, remplisse un état financier selon la formule prescrite par les règlements et qu'il remette celui-ci au bureau du directeur, accompagné de preuves relatives à son revenu que les règlements peuvent exiger.	États financiers

Idem	(2) The Director may request completion of the financial statement by sending a request by prepaid ordinary mail to the payor at his or her last address as shown on the records of the Director's office together with a blank financial statement form and a statement of the arrears.	(2) Le directeur peut demander que soit rempli l'état financier en envoyant au payeur une demande à cet effet, par courrier ordinaire, franc de port, à la dernière adresse du payeur indiquée dans les dossiers du bureau du directeur. La demande est accompagnée d'une formule d'état financier en blanc et d'un relevé d'arriéré.	Idem
Idem	(3) The request shall be deemed to have been served on the payor on the fifth day following mailing, excluding Saturdays, Sundays and holidays, unless the contrary is shown.	(3) Sauf s'il est démontré le contraire, la demande est réputée avoir été signifiée au payeur le cinquième jour qui suit la mise à la poste, à l'exception du samedi, du dimanche et des jours fériés.	Idem
Idem	(4) The payor shall deliver the completed financial statement to the Director's office within fifteen days of the day that he or she was served with the request to complete the form.	(4) Le payeur remet l'état financier rempli au bureau du directeur dans les quinze jours qui suivent le jour où il a reçu signification de la demande pour remplir la formule.	Idem
Changes in information	(5) If a payor discovers that any information was incomplete or wrong at the time he or she completed the financial statement, he or she, within ten days of the discovery, shall deliver to the Director's office the corrected information.	(5) S'il découvre qu'un renseignement était incomplet ou erroné au moment où il a rempli l'état financier, le payeur remet, au bureau du directeur, dans les dix jours de la découverte, la rectification du renseignement.	Changements relatifs aux renseignements
Failure to comply	(6) The Ontario Court (Provincial Division) or the Unified Family Court, on the motion of the Director, may order a payor to comply with a request under subsection (2) and subsections 11 (3) and (4) apply with necessary modifications.	(6) La Cour de l'Ontario (Division provinciale) ou la Cour unifiée de la famille, sur présentation d'une motion du directeur, peut ordonner au payeur de se conformer à la demande prévue au paragraphe (2) et les paragraphes 11 (3) et (4) s'appliquent avec les adaptations nécessaires.	Défaut de se conformer
Limitation	(7) The Director may require a financial statement under this section once in any six-month period but this does not restrict the Director's right to obtain a financial statement under section 11.	(7) Le directeur peut exiger, en vertu du présent article, une fois par période de six mois, un état financier. Toutefois, ce qui précède ne restreint pas le droit du directeur d'obtenir un état financier en vertu de l'article 11.	Restriction
Payments pending court decisions	3.11 —(1) Despite the commencement of a motion under subsection 3.3 (18) or section 3.4, 3.5, 3.6 or 3.9, the Director shall pay any money he or she receives in respect of a support order or a support deduction order to the person entitled to receive support under the order.	3.11 (1) Malgré l'introduction d'une motion en vertu du paragraphe 3.3 (18) ou de l'article 3.4, 3.5, 3.6 ou 3.9, le directeur verse les sommes qu'il reçoit aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments à la personne qui a droit aux aliments aux termes de l'ordonnance.	Versements en attendant une décision du tribunal
Exception	(2) If a court orders the Director to hold any of the money received in respect of a support order or a support deduction order pending the disposition of the motion, the Director shall, to the extent the court order requires it, hold any money received after the Director receives a copy of the court's decision.	(2) Si un tribunal ordonne au directeur de retenir les sommes reçues aux termes d'une ordonnance alimentaire ou d'une ordonnance de retenue des aliments jusqu'à ce qu'une décision concernant la motion soit prise, le directeur doit retenir, dans la mesure où l'ordonnance du tribunal l'exige, les sommes reçues après qu'il a reçu une copie de la décision du tribunal.	Exception
Duty to advise on address change	3.12 If a payor changes address, he or she shall advise the Director's office of the new address within ten days of the change.	3.12 Si le payeur change d'adresse, il informe le bureau du directeur de sa nouvelle adresse dans les dix jours du changement.	Changement d'adresse

Duty re:
unfiled or
withdrawn
support
orders

3.13 Where a support deduction order has been made in respect of a support order that has not been filed in or that has been withdrawn from the Director's office, the person entitled to receive support shall inform the Director in writing of,

- (a) the amount of money received on account of the support order other than through the support deduction order; and
- (b) any changes in the amount to be paid under the support order.

5. Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

(2) A support order that has been assigned to the Minister of Community and Social Services may not be withdrawn except by the Minister or with the Minister's consent so long as the order is under assignment or if there are arrears owing to the Ministry of Community and Social Services from a past assignment.

6. The Act is amended by renumbering subsection 4 (4) as section 4.1.

7.—(1) Subsection 6 (1) of the Act, except the clauses, is repealed and the following substituted:

(1) The Director may, for the purposes of enforcing a support or custody order in Ontario or for the purposes of assisting an office or person performing similar functions in another jurisdiction,

(2) Subsection 6 (2) of the Act is amended by adding the following clause:

- (a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

(3) Subsection 6 (5) of the Act is amended by adding the following clause:

- (a.1) as permitted by the *Freedom of Information and Protection of Privacy Act, 1987*.

8. Subsection 7 (2) of the Act is repealed and the following substituted:

(2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act (Canada)* for the enforcement of a support or custody order, except,

- (a) to the extent necessary for the enforcement of the order; or

3.13 Si une ordonnance de retenue des aliments a été rendue relativement à une ordonnance alimentaire qui n'a pas été déposée au bureau du directeur ou qui en a été retirée, la personne ayant droit aux aliments avise par écrit le directeur :

- a) des sommes d'argent reçues en raison de l'ordonnance alimentaire autrement qu'au moyen de l'ordonnance de retenue des aliments;
- b) de tout changement apporté à la somme devant être versée aux termes de l'ordonnance alimentaire.

5 Les paragraphes 4 (2) et (3) de la Loi sont abrogés et remplacés par ce qui suit :

(2) L'ordonnance alimentaire qui a été cédée au ministre des Services sociaux et communautaires ne peut être retirée que par le ministre ou avec son consentement tant que l'ordonnance est cédée ou si un arriéré provenant d'une cession antérieure est dû au ministère des Services sociaux et communautaires.

6 La Loi est modifiée par le remplacement du numéro du paragraphe 4 (4) par le numéro d'article 4.1.

7 (1) Le paragraphe 6 (1) de la Loi, à l'exception des alinéas, est abrogé et remplacé par ce qui suit :

(1) Aux fins de l'exécution d'une ordonnance alimentaire ou de garde d'enfants en Ontario ou afin d'aider un bureau ou une personne qui exerce des fonctions analogues dans une autre compétence, le directeur peut :

(2) Le paragraphe 6 (2) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

(3) Le paragraphe 6 (5) de la Loi est modifié par adjonction de l'alinéa suivant :

- a.1) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

8 Le paragraphe 7 (2) de la Loi est abrogé et remplacé par ce qui suit :

(2) Le directeur ne doit pas divulguer les renseignements obtenus aux termes de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales (Canada)* en vue de l'exécution d'une ordonnance alimentaire ou de garde d'enfants, sauf dans l'un des cas suivants :

- a) dans la mesure nécessaire à l'exécution de l'ordonnance;

Obligations
concernant
les ordonnances
alimentaires
non
déposées ou
retirées

Consentement
exigé

Accès aux
renseignements

Renseignements
obtenus du
gouvernement
fédéral

Consent
required

Access to
information

Information
obtained
from federal
government

- (b) as permitted by the *Freedom of Information and Protection of Privacy Act*, 1987.

9. The Act is further amended by adding the following section:

10.1—(1) If a writ of seizure and sale is filed with a sheriff in respect of a support order, the person who filed the writ may at any time file with the sheriff a statutory declaration specifying the amount currently owing under the order.

(2) When a statutory declaration is filed under subsection (1), the writ of seizure and sale shall be deemed to be amended to specify the amount owing in accordance with the statutory declaration.

(3) A sheriff who comes into possession of money to be paid out under a writ of seizure and sale in respect of a support order shall, not later than seven days after making the entry required by subsection 5 (1) of the *Creditors' Relief Act*, give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(4) A sheriff who receives a request for information about the amount owing under a writ of seizure and sale in respect of a support order from a person seeking to have the writ removed from the sheriff's file shall promptly give notice to the person who filed the writ of the opportunity to file a statutory declaration under subsection (1).

(5) Notice under subsection (3) or (4) may be given by attempting to contact the person who filed the writ by telephone and, if the person who filed the writ is not the Director, sending the notice by prepaid ordinary mail addressed to the person at the person's last known address.

(6) A sheriff shall not remove a writ of seizure and sale in respect of a support order from his or her file unless,

- (a) the writ has expired and has not been renewed;
- (b) the sheriff receives written notice from the person who filed the writ to the effect that the writ should be withdrawn;
- (c) notice is given under subsection (3) or (4), a statutory declaration is subsequently filed under subsection (1) and the writ, as deemed to be amended under subsection (2), has been fully satisfied; or

- b) si la *Loi de 1987 sur l'accès à l'information et la protection de la vie privée* le permet.

9 La Loi est modifiée de nouveau par adjonction de l'article suivant :

10.1 (1) Si un bref de saisie-exécution est déposé auprès du shérif à l'égard d'une ordonnance alimentaire, la personne qui a fait le dépôt peut, en tout temps, déposer auprès du shérif une déclaration solennelle précisant la somme qui est due à ce moment-là aux termes de l'ordonnance.

(2) Lorsqu'une déclaration solennelle est déposée aux termes du paragraphe (1), le bref de saisie-exécution est réputé modifié afin de préciser la somme due conformément à la déclaration solennelle.

(3) Le shérif, qui entre en possession d'une somme à payer aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, avise, au plus tard sept jours après avoir fait l'inscription exigée au paragraphe 5 (1) de la *Loi sur le désintéressement des créanciers*, la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu du paragraphe (1).

(4) Le shérif qui reçoit une demande de renseignements concernant la somme due aux termes d'un bref de saisie-exécution à l'égard d'une ordonnance alimentaire de la part d'une personne qui cherche à faire enlever le bref du dossier du shérif, avise promptement la personne qui a déposé le bref de la possibilité de déposer une déclaration solennelle en vertu de paragraphe (1).

(5) L'avis visé au paragraphe (3) ou (4) peut être donné en tentant de communiquer par téléphone avec la personne qui a déposé le bref et, si celle-ci n'est pas le directeur, en envoyant l'avis par courrier ordinaire, franc de port, adressé à la personne, à sa dernière adresse connue.

(6) Le shérif ne doit pas enlever de son dossier un bref de saisie-exécution à l'égard d'une ordonnance alimentaire, à moins que l'une des conditions suivantes ne soit remplie :

- a) le bref a pris fin et n'a pas été renouvelé;
- b) le shérif reçoit, de la personne qui a déposé le bref, un avis écrit selon lequel le bref devrait être retiré;
- c) un avis est donné aux termes du paragraphe (3) ou (4), une déclaration solennelle est déposée par la suite en vertu du paragraphe (1) et il a été complètement satisfait au bref, tel qu'il est réputé modifié aux termes du paragraphe (2);

Notice to sheriff of amount owing

Effect of statutory declaration

Notice from sheriff of opportunity to give statutory declaration

Idem

Manner of giving notice

Removal of writ from sheriff's file

Avis au shérif concernant la somme due

Effet de la déclaration solennelle

Avis du shérif concernant la déclaration solennelle

Idem

Façon de donner l'avis

Enlèvement d'un bref du dossier du shérif

- (d) notice is given under subsection (3) or (4), ten days have elapsed since the notice was given, no statutory declaration has been filed under subsection (1) since the giving of the notice and the writ has been fully satisfied.

Filing by fax

(7) A statutory declaration may be filed under subsection (1) by telephone transmission of a facsimile of the statutory declaration to the sheriff along with a cover page that contains the following information:

1. The sender's name and address.
2. The date and time of the transmission.
3. The total number of pages transmitted, including the cover page.
4. The telephone number from which the statutory declaration is transmitted.
5. The telephone number of a person to contact in the event of transmission problems.

Delivery of statutory declaration to land registrar

(8) If a copy of a writ of seizure and sale has been delivered by the sheriff to a land registrar under section 137 of the *Land Titles Act* and a statutory declaration is filed under subsection (1) in respect of the writ, the sheriff shall promptly deliver a copy of the statutory declaration to the land registrar and the amendment deemed to be made to the writ under subsection (2) does not bind land registered under the *Land Titles Act* until a copy of the statutory declaration has been received and recorded by the land registrar.

10.—(1) Subsection 11 (1) of the Act is repealed and the following substituted:

(1) When a support order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and appear before the court to explain the default.

(2) Subsection 11 (6) of the Act is amended by striking out "that there are no arrears or" in the first and second lines.

(3) Clause 11 (6) (a) of the Act is repealed and the following substituted:

- (a) pay all or part of the arrears by such periodic payments as the court considers just, but an order for partial payment does not discharge any unpaid arrears.

Filing of financial statement with Director

- d) un avis est donné aux termes du paragraphe (3) ou (4), dix jours se sont écoulés depuis que l'avis a été donné, aucune déclaration solennelle n'a été déposée en vertu du paragraphe (1) depuis que l'avis a été donné et il a été complètement satisfait au bref.

(7) Une déclaration solennelle peut être déposée en vertu du paragraphe (1) en transmettant un fac-similé par téléphone au shérif avec une page de couverture qui comprend les renseignements suivants :

1. Le nom et l'adresse de l'expéditeur.
2. La date et l'heure de la transmission.
3. Le nombre total de pages transmises, y compris la page de couverture.
4. Le numéro de téléphone de l'appareil duquel a lieu la transmission de la déclaration solennelle.
5. Le numéro de téléphone d'une personne à qui le destinataire pourra s'adresser en cas de difficultés de transmission.

Dépôt par télécopie

(8) Si une copie d'un bref de saisie-exécution a été remise par le shérif à un registraire aux termes de l'article 137 de la *Loi sur l'enregistrement des droits immobiliers* et qu'une déclaration solennelle est déposée en vertu du paragraphe (1) à l'égard du bref, le shérif remet rapidement une copie de la déclaration solennelle au registraire et la modification réputée apportée au bref aux termes du paragraphe (2) ne grève un bien-fonds enregistré aux termes de la *Loi sur l'enregistrement des droits immobiliers* qu'une fois qu'une copie de la déclaration solennelle a été reçue et consignée par le registraire.

Remise d'une déclaration solennelle à un registraire

10 (1) Le paragraphe 11 (1) de la Loi est abrogé et remplacé par ce qui suit :

(1) Lorsqu'une ordonnance alimentaire qui est déposée auprès du bureau du directeur est en défaut, le directeur peut préparer un état de l'arriéré et il peut, au moyen d'un avis signifié au payeur avec l'état de l'arriéré, enjoindre au payeur de déposer auprès du bureau du directeur un état financier rédigé selon la formule prescrite par les règles de pratique et de comparaître devant le tribunal pour expliquer le défaut.

Dépôt d'un état financier auprès du directeur

(2) Le paragraphe 11 (6) de la Loi est modifié par suppression, à la première ligne, des mots «s'il ne reconnaît pas d'arriéré ou».

(3) L'alinéa 11 (6) a) de la Loi est abrogé et remplacé par ce qui suit :

- a) enjoindre au payeur d'acquitter la totalité ou une partie de l'arriéré au moyen de versements périodiques que le tribunal estime équitables, mais une

(4) Section 11 of the Act is amended by adding the following subsection:

Interim
orders

(6.1) The court may make an interim order against the payor that includes any order that may be made under subsection (6).

11. Section 12 of the Act is repealed and the following substituted:

Restraining
order

12. A court, including the Ontario Court (Provincial Division), may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a support order or support deduction order.

Contempt

12.1—(1) In addition to its powers in respect of contempt, a court, including the Ontario Court (Provincial Division), may punish by fine or imprisonment, or by both, any wilful contempt of, or resistance to, its process, rules or orders under this Act, but the fine shall not exceed \$10,000 nor shall the imprisonment exceed ninety days.

Conditions
of imprison-
ment

(2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Offences

12.2 A person who knowingly contravenes subsection 3.3 (8), (17), (25), (26) or (27), section 3.12 or subsection 3.10 (4) or (5) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

12. The Act is further amended by adding the following sections:

Enforcement
alternatives

13.1 Enforcement of a support order, custody order or support deduction order by one means does not prevent enforcement by other means at the same time or at different times.

Regulations

13.2 The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;
- (b) prescribing practices and procedures related to the enforcement, suspension and termination of support orders and support deduction orders filed in the Director's office;

ordonnance pour un versement partiel n'acquitte pas un arriéré non payé.

(4) L'article 11 de la Loi est modifié par adjonction du paragraphe suivant :

Ordonnances
provisoires

(6.1) Le tribunal peut rendre une ordonnance provisoire contre le payeur. L'ordonnance provisoire peut inclure les ordonnances qui peuvent être rendues en vertu du paragraphe (6).

11 L'article 12 de la Loi est abrogé et remplacé par ce qui suit :

12 Un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut rendre une ordonnance afin d'interdire l'aliénation ou la dilapidation des biens qui peut entraver ou empêcher l'exécution de l'ordonnance alimentaire ou de retenue des aliments.

Ordonnance
de ne pas
faire

12.1 (1) Outre les pouvoirs dont il dispose en matière d'outrage, un tribunal, y compris la Cour de l'Ontario (Division provinciale), peut infliger une amende et une peine d'emprisonnement, ou une seule de ces peines, à quiconque désobéit volontairement ou résiste à ses actes de procédure, règles ou ordonnances en vertu de la présente loi. Toutefois, l'amende ne dépasse pas 10 000 \$ et la peine d'emprisonnement ne dépasse pas quatre-vingt-dix jours.

Désobéissance

(2) L'ordonnance imposant une peine d'emprisonnement en vertu du paragraphe (1) peut faire dépendre cette peine du respect d'une condition qui y est précisée. Elle peut prévoir que la peine d'emprisonnement soit purgée de façon intermittente.

Emprisonne-
ment

12.2 Quiconque contrevient sciemment au paragraphe 3.3 (8), (17), (25), (26) ou (27), à l'article 3.12 ou au paragraphe 3.10 (4) ou (5) est coupable d'une infraction et passible, sur déclaration de culpabilité, d'une amende d'au plus 10 000 \$.

Infractions

12 La Loi est modifiée de nouveau par adjonction des articles suivants :

13.1 L'exécution d'une ordonnance alimentaire, de garde d'enfants ou de retenue des aliments par un moyen n'empêche pas l'exécution de l'ordonnance par d'autres moyens au même moment ou à des moments différents.

Autres
moyens
employés
pour l'exécu-
tion

13.2 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) prescrire des formules et prévoir les modalités de leur emploi;
- b) prescrire les pratiques et les procédures relatives à l'exécution, la suspension et la révocation des ordonnances alimentaires et de retenue des aliments déposées au bureau du directeur;

- (c) prescribing types of income for the purposes of clause (f) of the definition of "income source" in subsection 1 (1);
- (d) prescribing classes of persons and information to be supplied to the court and the manner in which information is to be supplied for the purposes of subsection 3.1 (4);
- (e) prescribing deductions for the purposes of subsection 3.3 (12);
- (f) prescribing information that shall be supplied under subsection 3.3 (25);
- (g) governing the form and posting of security by a payor under section 3.4 and the realization thereon;
- (h) respecting proof of income for the purposes of section 3.10;
- (i) prescribing the method of service on the Crown of notices of support deduction orders in place of the method prescribed in subsection 3.3 (5);
- (j) providing that a support deduction order is not effective against the Crown unless a statement of particulars in the prescribed form is served with the notice of the order;
- (k) providing that a notice of a support deduction order served on the Crown shall be deemed to have been served, not on the day described in subsection 3.3 (6), but on the day that is the number of days specified in the regulation after the actual date of service, but the regulation shall not specify more than thirty days as the number of days.

13. Section 18 of the Act is repealed and the following substituted:

Short title **18.** The short title of this Act is the *Family Support Plan Act, 1985*.

PART II

Employment Standards Act

14. Section 9 of the *Employment Standards Act* is repealed.

15. The Act is amended by adding the following Part:

PART XI-C

COURT ORDERED PAYMENTS AND GARNISHMENT

Prohibition

39L. No employer or person acting on behalf of an employer shall,

- c) prescrire les types de revenu aux fins de l'alinéa f) de la définition de la «source de revenu» au paragraphe 1 (1);
- d) prescrire les catégories de personnes et les renseignements devant être fournis au tribunal et la façon dont doivent être fournis les renseignements aux fins du paragraphe 3.1 (4);
- e) prescrire les retenues aux fins du paragraphe 3.3 (12);
- f) prescrire les renseignements qui sont fournis aux termes du paragraphe 3.3 (25);
- g) régir la façon de fournir une sûreté par le payeur et la forme de celle-ci aux termes de l'article 3.4 et la réalisation de cette sûreté;
- h) traiter des preuves relatives au revenu aux fins de l'article 3.10;
- i) prescrire le mode de signification à la Couronne des avis des ordonnances de retenue des aliments en remplacement du mode prescrit au paragraphe 3.3 (5);
- j) prévoir qu'une ordonnance de retenue des aliments n'a d'effet contre la Couronne que si un état détaillé dressé selon la formule prescrite est signifié avec l'avis de l'ordonnance;
- k) prévoir que l'avis d'une ordonnance de retenue des aliments signifié à la Couronne est réputé ne pas être signifié le jour prévu au paragraphe 3.3 (6), mais le jour qui est postérieur, du nombre de jours précisé dans le règlement, à la date effective de signification; le règlement ne doit toutefois pas préciser un nombre de jours supérieur à trente.

13 L'article 18 de la Loi est abrogé et remplacé par ce qui suit :

18 Le titre abrégé de la présente loi est *Loi de 1985 sur le Régime des obligations alimentaires envers la famille*. Titre abrégé

PARTIE II

Loi sur les normes d'emploi

14 L'article 9 de la *Loi sur les normes d'emploi* est abrogé.

15 La Loi est modifiée par adjonction de la partie suivante :

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty on an employee; or
- (d) intimidate or coerce an employee,

because the employer is or may be required because of a court order or garnishment to pay to a third party any amount owing by the employer to the employee.

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits in an amount not exceeding \$4,000 that may be assessed by the employment standards officer against the employer.

16. Section 39m of the Act, as enacted by section 15 of this Act, is repealed and the following substituted:

Employment
standards
officer may
make order

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17. Subsection 50 (1) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 3 and 1988, chapter 7, section 2, is further amended by inserting after "39f" in the amendment of 1988 "39m".

18. Subsection 53 (2) of the Act, as amended by the Statutes of Ontario, 1983, chapter 55, section 4 and 1988, chapter 7, section 3, is further amended by inserting after "39f" in the amendment of 1988 "39m".

PART III

Commencement, Short Title

Commence-
ment

19. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20. The short title of this Act is the *Family Support Plan Amendment Act, 1991*.

16 L'article 39m de la Loi, tel qu'adopté par l'article 15 de la présente Loi, est abrogé et remplacé par ce qui suit :

39m. Where an employer contravenes section 39L, an employment standards officer may order what action, if any, the employer shall take or what the employer shall refrain from doing in order to constitute compliance with section 39L and may make an order to reinstate in employment the employee concerned, with or without compensation, or to compensate the employee in lieu of reinstatement for loss of earnings or other employment benefits.

17 Le paragraphe 50 (1) de la Loi, tel que modifié par l'article 3 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 2 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

18 Le paragraphe 53 (2) de la Loi, tel que modifié par l'article 4 du chapitre 55 des Lois de l'Ontario de 1983 et par l'article 3 du chapitre 7 des Lois de l'Ontario de 1988, est modifié en outre par l'insertion de «39m» après «39f» dans la modification de 1988.

PARTIE III

Entrée en vigueur et titre abrégé

19 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.

Entrée en
vigueur

20 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur le Régime des obligations alimentaires envers la famille*.

Titre abrégé

12-311
XB
856

Bill 18

An Act respecting the City of London

Mr. Winninger



1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill gives power to the council of The Corporation of the City of London to prohibit the demolition or removal of any building or structure that is on a "designated property" or within a "heritage conservation district" as defined by the *Ontario Heritage Act*.

If the council refuses to allow a building or structure to be demolished or removed, the property owner must obtain a building permit to erect a new building on the site before any demolition or removal could be started. The new building must be completed within two years after beginning demolition or removal of the old property. These requirements apply even if demolition or removal work commenced before this Act comes into force.

A person may apply to the council for an extension of the two-year time limit with respect to completing a new building on the site and may appeal the council's decision on that extension to the Ontario Municipal Board.

Individuals, including directors and officers of a corporation, who knowingly furnish false information regarding matters under this Act would be liable to a fine of up to \$10,000 or to imprisonment for up to two years, or to both; corporations would be liable to a fine of up to \$50,000.

Persons who participate in the wrongful demolition or removal of a building or structure would be liable to a fine of up to \$1,000,000 or to imprisonment for up to one year, or to both.

An Act respecting the City of London

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

“council” means the council of The Corporation of the City of London;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

Application in respect of designated properties

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

Notice of decision

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

(a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and

(b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

Requirements for demolition

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

Idem, transitional

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Subs. (4) applies notwithstanding work commenced

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the commencement of the demolition or removal, substantially complete the new building to be erected on the site.

Requirement respecting new building

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a

Application respecting buildings in heritage conservation districts

heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Notice of
decision

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

Requirements
for
demolition

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem,
transitional

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within

two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

Relief from
time
restriction

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

Idem

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

5.—(1) The council shall consider an application under section 4 and may,

Council may
grant relief

- (a) extend the time for completion of the new building; or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time.

Where time
extended

(3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building.

Where relief
granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board,

Appeal to
O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within

thirty days after the receipt by the clerk of the application.

Idem

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5.

Board's
decision final
Extension of
time

(3) The decision of the Board is final.

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision.

Dismissal of
appeal

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final.

Requirement
where time
extended

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time.

Service

7.—(1) Any notice required to be given, delivered or served under this Act is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at their last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that the person, acting in good faith, did not through absence, accident, illness or other cause beyond that person's control receive the notice until a later date.

Publication

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

Offence

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Offence,
corporations

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

Offence

(4) Every owner who,

Idem

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

Idem

(a) contravenes subsection 3 (3) or (4); or

(b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

9. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

10. The short title of this Act is the *City of London Act, 1990*.

Short title

Bill 18

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 18

(Chapter 29
Statutes of Ontario, 1990)

An Act respecting the City of London

Mr. Winninger



1st Reading	December 6th, 1990
2nd Reading	December 20th, 1990
3rd Reading	December 20th, 1990
Royal Assent	December 20th, 1990

This Bill has been reprinted to conform to the new printing format

An Act respecting the City of London

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“building permit” means a building permit issued under section 6 of the *Building Code Act*;

“council” means the council of The Corporation of the City of London;

“designated property” means designated property as defined in clause 26 (a) of the *Ontario Heritage Act*;

“heritage conservation district” means an area designated as such under section 41 of the *Ontario Heritage Act*;

“owner” means the person registered on title in the proper land registry office as owner.

Application in respect of designated properties

2.—(1) Notwithstanding section 34 of the *Ontario Heritage Act*, in considering an application under subsection 34 (1) of that Act to demolish or remove any building or structure on a designated property, the council may refuse the application and prohibit any work being done to demolish or remove the building or structure.

Notice of decision

(2) The council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council,

(a) give notice of its decision under subsection (1) to the owner and to the Ontario Heritage Foundation; and

(b) publish its decision in a newspaper having general circulation in the municipality,

and where the council fails to notify the owner under clause (a), it shall be deemed to have consented to the application.

Requirements for demolition

(3) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has under subsection (1) refused an application under subsection 34 (1) of the *Ontario Heritage Act*, the owner of the property shall not demolish or remove the building or structure or do any work or cause or permit any work to be done in the demolition or removal of the building or structure unless,

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the decision of the council under subsection (1).

(4) Notwithstanding subsection 34 (4) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application and prohibited any work to demolish or remove any building or structure on a property for the period of time provided for under clause 34 (2) (b) of that Act, the owner of the property shall not do any work or cause or permit any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

Idem, transitional

(a) the owner has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and

(b) 180 days have elapsed from the date of the refusal by the council of the application under clause 34 (2) (b) of that Act.

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Subs. (4) applies notwithstanding work commenced

(6) An owner who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under clause 34 (2) (b) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall, within two years of the commencement of the demolition or removal, substantially complete the new building to be erected on the site.

Requirement respecting new building

3.—(1) Notwithstanding sections 42 and 43 and subsection 44 (2) of the *Ontario Heritage Act*, in considering an application under section 43 of that Act to demolish or remove a building or structure within a

Application respecting buildings in heritage conservation districts

heritage conservation district, the council may refuse the application and prohibit any work from being done to demolish or remove the building or structure.

Notice of
decision

(2) Council shall within ninety days of receipt of the completed application or such longer period as is mutually agreed upon by the applicant and the council give notice of its decision under subsection (1) to the owner and where council fails to so notify the owner it shall be deemed to have consented to the application.

Requirements
for
demolition

(3) Notwithstanding clause 42 (c) and subsection 44 (2) of the *Ontario Heritage Act*, where council has under subsection (1) refused an application under section 43 of the *Ontario Heritage Act* and prohibited any work from being done to demolish or remove a building or structure, no person shall demolish or remove the building or structure or do or cause any work to be done in the demolition or removal of the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the decision of the council under subsection (1).

Idem,
transitional

(4) Notwithstanding section 42 and subsection 44 (2) of the *Ontario Heritage Act*, where the council has, prior to the coming into force of this Act, refused an application under subsection 43 (2) of that Act, no person shall do any work or cause any work to be done after the date this Act comes into force to demolish or remove the building or structure unless,

- (a) the person has obtained a building permit to erect a new building on the site of the building or structure sought to be demolished or removed; and
- (b) 180 days have elapsed from the date of the refusal by the council of the application under subsection 43 (2) of that Act.

Subs. (4)
applies
notwith-
standing
work
commenced

(5) Subsection (4) applies notwithstanding that any work may have been commenced on the demolition or removal of a building or structure prior to the coming into force of this Act.

Requirement
respecting
new building

(6) A person who is refused by the council under subsection (1) or, if prior to the coming into force of this Act, under subsection 43 (2) of the *Ontario Heritage Act*, and who subsequently demolishes or removes or causes or permits to be demolished or removed the building or structure in accordance with subsection (3) or (4) shall within

two years of the commencement of the demolition or removal substantially complete the new building to be erected on the site.

4.—(1) Where a person who has been refused by the council under subsection 2 (1) or 3 (1) of this Act, or under clause 34 (2) (b) or subsection 43 (2) of the *Ontario Heritage Act*,

Relief from
time
restriction

- (a) considers that it is not possible to complete a new building within the two year period specified in subsection 2 (6) or 3 (6); or
- (b) considers that the construction of a new building has become not feasible on economic or other grounds,

that person may apply to the council for relief from the requirement imposed by subsection 2 (6) or 3 (6) by sending notice of application by registered mail to the clerk of the Corporation not less than forty-five days before the expiry of the two year period within which the new building is to be substantially completed.

(2) Where the council extends the time under section 5 for completion of the new building and the applicant considers that,

Idem

- (a) it is not possible to complete a new building in the extended time; or
- (b) the construction of a new building has become not feasible on economic or other grounds,

application may be made for relief from the extended completion time by sending notice of application not less than ninety days before the expiry of the extended completion time.

5.—(1) The council shall consider an application under section 4 and may,

Council may
grant relief

- (a) extend the time for completion of the new building; or
- (b) relieve the applicant from the requirement of constructing the new building.

(2) If time is extended under clause (1) (a), the applicant shall complete the new building within the extended time.

Where time
extended

(3) If relief is granted under clause (1) (b), the applicant shall thereafter be deemed not to have contravened the provisions of this Act by failing to substantially complete the new building.

Where relief
granted

6.—(1) Any person who has made application under section 4 may appeal to the Ontario Municipal Board,

Appeal to
O.M.B.

- (a) from the decision of the council; or
- (b) from the refusal or neglect of council to make a decision thereon within

thirty days after the receipt by the clerk of the application.

Idem

(2) An appeal under subsection (1) shall be made within twenty days of the mailing of the notice of decision or after the expiration of the thirty day period set out in clause (1) (b) and the Board shall hear the appeal and the Board on the appeal has the same powers as the council has under section 5.

Board's
decision final
Extension of
time

(3) The decision of the Board is final.

(4) Where an appeal has been made to the Board under subsection (1), the two year period within which the new building is to be substantially completed shall be deemed to be extended to the date of the Board's decision.

Dismissal of
appeal

(5) Where the Board dismisses an appeal from a decision of council under subsection (1) the Board may extend the time for completing the new building for such further period as the Board considers reasonable and the decision of the Board is final.

Requirement
where time
extended

(6) Where the Board has extended the time for completion of the new building under subsection (2) or (5) the applicant shall substantially complete the new building within the extended time.

Service

7.—(1) Any notice required to be given, delivered or served under this Act is sufficiently given, delivered or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at their last known address.

Idem

(2) Where service is made by mail, the service shall be deemed to be made on the seventh day after the day of mailing unless the person on whom service is being made establishes that the person, acting in good faith, did not through absence, accident, illness or other cause beyond that person's control receive the notice until a later date.

Publication

(3) Any notice required to be published in a newspaper having general circulation in the municipality shall be published in that newspaper once for each of three consecutive weeks.

Offence

8.—(1) Subject to subsection (2), every person who knowingly furnishes false information in any application under this Act or in any statement, report or return furnished under this Act and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the corporation is \$50,000 and not as provided therein.

Offence,
corporations

(3) Every person who on designated property or within a heritage conservation district demolishes or removes any building or structure or part thereof or who does any work or causes or permits any work to be done in the demolition or removal of any building or structure or part thereof without that person first obtaining the consent of the council and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

Offence

(4) Every owner who,

Idem

(a) contravenes subsection 2 (3) or (4); or

(b) has an obligation to erect a new building under subsection 2 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

(5) Every person who,

Idem

(a) contravenes subsection 3 (3) or (4); or

(b) has an obligation to erect a new building under subsection 3 (6) and who fails to substantially complete the new building within the required two year time period or within the time period extended under subsection 6 (4) or within the extended time period granted under clause 5 (1) (a) or subsection 6 (5),

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$1,000,000 or to imprisonment for a term of not more than one year, or to both.

9. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

10. The short title of this Act is the *City of London Act, 1990*.

Short title

Bill 19

An Act to amend the Professional Engineers Act, 1984

Mr. Sterling



1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to enable the Registrar of the Association of Professional Engineers of Ontario to refuse to issue a licence to an applicant who has been convicted of sexual assault under the *Criminal Code* or who has engaged in sexual harassment.

**An Act to amend the
Professional Engineers Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 14 of the *Professional Engineers Act, 1984* is amended by adding the following subsection:

(2a) The Registrar may refuse to issue a licence to an applicant if the applicant has been convicted of sexual assault or aggra-

vated sexual assault under the *Criminal Code* or if there are reasonable and probable grounds to believe that the applicant has harassed another person because of the sex of that person.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Professional Engineers Amendment Act, 1990*. Short title

Idem

Bill 20

An Act to amend the Insurance Act

Mr. Runciman



1st Reading December 6th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to remove the immunity from civil liability in respect of loss or damage from bodily injury arising from the use or operation of an automobile that was accorded by the *Insurance Statute Law Amendment Act, 1990*.

An Act to amend the Insurance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 98 (1) (bp), (bq) and (br) of the *Insurance Act*, as enacted by the Statutes of Ontario, 1990, chapter 2, section 37, are repealed.

2. Sections 231a and 231b of the Act, as enacted by the Statutes of Ontario, 1990, chapter 2, section 57, are repealed.

3. Section 232 of the Act, as re-enacted by the Statutes of Ontario, 1990, chapter 2, section 57, is amended by adding the following subsections:

(9) A payment made by an insurer under a contract of insurance referred to in subsection (1) is to the extent of the payment a release by the insured person or his or her personal representatives of any claim that the insured person or his or her personal representatives or any person claiming through or

under him or her or by virtue of Part V of the *Family Law Act*, 1986 may have against the insurer and any other person who may be liable to the insured person or his or her personal representatives if that other person is insured under a contract of the same type as is specified in subsection (1).

(10) Nothing in subsection (9) precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his or her personal representatives or any other person. Idem

4. Sections 242a, 242b, 242c, 242d, 242e, 242f, 242g, 242h, 242i and 242j of the Act, as enacted by the Statutes of Ontario, 1990, chapter 2, section 65, are repealed.

5. This Act comes into force on the 1st day of February, 1991. Commence-
ment

6. The short title of this Act is the *Insurance Amendment Act, 1990*. Short title

Bill 21

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 21

An Act to establish a Committee respecting the Direct Election of the Premier

Mr. Henderson



1st Reading	December 10th, 1990
2nd Reading	
3rd Reading	
Royal Assent	

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to establish a committee to develop a plan under which the Premier of Ontario would be elected by direct election by all Ontario electors. The Committee will be composed of members of the Assembly, academics, a government lawyer and the chair of the Ontario Law Reform Commission.

The Committee will be directed to consider constitutional and other legal implications of the change in the method of choosing the Premier. It will also be directed to prepare all necessary draft legislation to implement the plan. It will have eighteen months to complete its work.

An Act to establish a Committee respecting the Direct Election of the Premier

Whereas under the existing laws and system of government in Ontario, electors elect members of the Legislative Assembly for their own electoral districts but do not directly elect the Premier of the Province;

And whereas it is desirable that Ontario electors be enabled to express their preferences not only among candidates for election to the Assembly in their own electoral districts but also among those who seek to serve as Premier;

And whereas it is appropriate that a committee be established to prepare a plan for implementing the election of the Premier by direct popular vote and to report thereon to the Legislative Assembly;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Committee
established

1.—(1) A committee to be named the Committee on the Direct Election of the Premier is established.

Composition

- (2) The Committee shall be composed of,
- (a) three members of the Legislative Assembly from the party from which the Government is chosen, appointed by the Chief Government Whip;
 - (b) two members of the Legislative Assembly from the party recognized as the Official Opposition, appointed by the Chief Opposition Whip;
 - (c) one member of the Legislative Assembly from each party, other than a party mentioned in clause (a) or (b), having at least twelve members in the Assembly, appointed by the Chief Party Whip of the party;
 - (d) a professor of constitutional law on the law faculty of a university in Ontario, appointed by the Lieutenant Governor in Council;
 - (e) a professor of political studies or political science on the arts and science faculty of a university in Ontario,

appointed by the Lieutenant Governor in Council;

- (f) a lawyer who is employed in the Ministry of the Attorney General, appointed by the Lieutenant Governor in Council; and
- (g) the chair of the Ontario Law Reform Commission.

(3) The appointments under subsection (2) shall be made not later than three months after the day on which this Act comes into force and, in the event that any appointment is not made within that time, the Committee members who have been appointed shall make the appointment. Appointments

(4) If any member of the Committee becomes unable to continue to serve on the Committee, the remaining members may appoint a substitute in his or her place. Member
unable to
serve

(5) The Lieutenant Governor in Council shall designate as chair of the Committee one of the members of the Legislative Assembly appointed to the Committee. Chair

(6) If the chair becomes unable to continue to serve as chair, the remaining Committee members may appoint a substitute in his or her place. Idem

2.—(1) The Committee shall prepare a report setting out a plan for implementing the election of the Premier by direct popular vote to be held concurrently with each general election as defined in the *Election Act, 1984*. Duties of
Committee

(2) In preparing its report, the Committee shall determine what changes to Ontario's laws and system of government will be necessary or advisable in order to provide for the election of the Premier by direct popular vote and shall consider all relevant matters, including, Matters to be
considered

- (a) what changes, if any, to the constitution of Canada and Ontario will be required;
- (b) what changes to the *Election Act, 1984*, the *Election Finances Act, 1986*,

and other Ontario legislation will be required;

- (c) what method should be used to fill vacancies in the office of the Premier if the office becomes vacant between general elections;
- (d) what effect the election of the Premier by direct popular vote will have on the offices of the Premier and the Lieutenant Governor;
- (e) whether changes will be required in the method of selecting the members of the Executive Council, whether persons other than members of the Legislative Assembly who are members of the Premier's party should be eligible for membership in the Council and whether members of the Council should be selected or subject to confirmation by the Assembly;
- (f) what effect the election of the Premier by direct popular vote will have on the Legislative Assembly; and
- (g) whether there should be a fixed term of office for the Premier and members of the Legislative Assembly and, if so, what should be the consequences of

the passage of a non-confidence motion in the Assembly before the expiry of the term.

(3) The Committee, in consultation with the Office of Legislative Counsel, shall prepare such draft legislation and resolutions as are necessary to give effect to its plan for implementing the election of the Premier by direct popular vote. Draft legislation

3.—(1) The Committee shall submit its report to the Legislative Assembly within eighteen months of the day on which this Act comes into force. Report to be submitted

(2) The Lieutenant Governor in Council may extend the period referred to in subsection (1) by six months. Idem

(3) The Committee's report shall include its conclusions respecting the matters referred to in subsection 2 (2) and the draft legislation and resolutions referred to in subsection 2 (3). Matters to be included

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is the *Committee on the Direct Election of the Premier Act, 1990.* Short title

Bill 22

An Act to provide for Certain Rights for Deaf Persons

Mr. Abel



1st Reading December 10th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to insure that deaf persons are not discriminated against by reason that they are accompanied by hearing ear dogs that are used by deaf persons as guide dogs.

The Bill extends to deaf persons with guide dogs the rights now enjoyed by blind persons with guide dogs under the *Blind Persons' Rights Act*.

An Act to provide for Certain Rights for Deaf Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1.—(1) In this Act,

“deaf person” means a person who because of deafness is dependent on a dog guide;

“dog guide” means a dog trained as a guide for a deaf person and having the qualifications prescribed by the regulations;

“Ministry” means the Ministry of the Attorney General.

Application

(2) This Act applies despite any other Act or any regulation, by-law or rule made thereunder.

Act binds Crown

(3) This Act binds the Crown.

Dog guides permitted in places to which public admitted

2.—(1) No person, directly or indirectly, shall,

(a) deny to any person the accommodation, services or facilities available in any place to which the public is customarily admitted; or

(b) discriminate against any person with respect to the accommodation, services or facilities available in any place to which the public is customarily admitted, or the charges for the use thereof,

for the reason that he or she is a deaf person accompanied by a dog guide.

Dog guides permitted in self-contained dwelling unit

(2) No person, directly or indirectly, shall,

(a) deny to any person occupancy of any self-contained dwelling unit; or

(b) discriminate against any person with respect to any term or condition of occupancy of any self-contained dwelling unit,

for the reason that he or she is a deaf person keeping or customarily accompanied by a dog guide.

(3) Nothing in this section shall be construed to entitle a deaf person to require any service, facility or accommodation in respect of a dog guide other than the right to be accompanied by the dog guide.

Other facilities

3.—(1) The Attorney General or an officer of the Ministry designated by the Attorney General in writing may, upon application therefor, issue to a deaf person an identification card identifying the deaf person and his or her dog guide.

Identification cards

(2) An identification card issued under subsection (1) is proof, in the absence of evidence to the contrary, that the deaf person and his or her dog guide identified therein are qualified for the purposes of this Act.

Cards as proof of qualification

(3) Any person to whom an identification card is issued under subsection (1) shall, upon the request of the Attorney General or an officer of the Ministry designated by the Attorney General in writing, surrender his or her identification card for amendment or cancellation.

Surrender of cards

4. The Lieutenant Governor in Council may make regulations prescribing qualifications for dog guides.

Regulations

5.—(1) Every person who contravenes section 2 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Penalty

(2) Every person who contravenes subsection 3 (3) or who, not being a deaf person, purports to be a deaf person for the purpose of claiming the benefit of this Act is guilty of an offence and on conviction is liable to a fine of not more than \$200.

Idem

6. This Act comes into force on the day it receives Royal Assent.

Commencement

7. The short title of this Act is the *Deaf Persons' Rights Act, 1990*.

Short title

2 ON
B
56

Bill 23

An Act respecting Environmental Rights in Ontario

Mrs. Sullivan



1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force, and for regular review by the Environmental Assessment Board of all regulations affecting the environment. In addition, the Bill prohibits an employer from dismissing an employee who reports to any person an act that contaminates or degrades the environment.

The Bill also amends the *Environmental Protection Act* to expand the scope of the protection provided to employees who refuse to pollute, by adding several statutes to the list set out in subsection 134b (2) of that Act.

An Act respecting Environmental Rights in Ontario

Preamble

Whereas a healthy and sustainable environment is the basis of the health and well-being of the people of Ontario;

And whereas the environment of Ontario is under stress from contamination and degradation;

And whereas the people of Ontario face substantial obstacles to their ability to participate in environmental decision-making and to protect their common interest in a healthy and sustainable environment;

And whereas it is desirable to remove these obstacles and ensure the important role of the people of Ontario and their government in securing a healthy environment for present and future generations;

And whereas it is desirable to conserve and maintain the resources of the Province for the benefit of present and future generations;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION AND PURPOSE

Definitions

1. In this Act,

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person,
- (e) render any property or plant or animal life unfit for use by people,

(f) cause loss of enjoyment of normal use of property, or

(g) interfere with the normal conduct of business,

and “contaminate” and “contamination” have corresponding meanings;

“Court” means the Supreme Court of Ontario;

“degradation” means any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and “degrade” has a corresponding meaning;

“environment” means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

2. The purpose of this Act is to ensure the health and sustainability of the environment of Ontario and, in particular,

Purpose

- (a) to facilitate the participation of the people of Ontario in decisions affecting the environment and their ability to protect their common interest in a healthy and sustainable environment;
- (b) to recognize the right of the people of Ontario to an environment that is adequate for their health and well-being and sustainable into the future; and
- (c) to recognize the obligations of the Province of Ontario to conserve and maintain the resources of the Province for present and future generations.

3.—(1) The people of Ontario have a right to a healthy and sustainable environment, including clean air and water, to the conservation of the natural, scenic, historic and aesthetic values of the environment, and to the protection of ecosystems and biological diversity.

(2) The Province of Ontario, as trustee of Ontario's public lands, waters and natural resources, shall conserve and maintain them for the benefit of present and future generations.

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

4.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

(3) The Minister shall provide a copy of the report of the investigation to the person who requested the investigation within ninety days of the date of the request.

PART II

CAUSE OF ACTION

5.—(1) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may commence an action in the Court against any person who is responsible for the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there has been, is or will be an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

(3) In an action commenced under this section, if the activity complained of is not governed by a standard established under an Act listed in the Schedule, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to the purposes of this Act, and the Court may order the defendant to comply with such standard as it may determine.

(4) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may apply for judicial review of the exercise or non-exercise of any power or the fulfilment or non-fulfilment of any duty conferred or imposed by any Act on the Minister of the Environment or any other Minister responsible for regulatory, fiscal or proprietary control of the activity.

6.—(1) Any person may commence an action in the Court against any person who appears to be in violation of any Act listed in the Schedule or of any approval, permit, licence, standard, regulation, rule or order established under an Act listed in the Schedule.

(2) No action under subsection (1) shall be commenced if the responsible Ministry is diligently pursuing enforcement action against the potential defendant.

(3) Damages payable under this section shall be paid to the Government of Ontario.

7. Any person may apply for judicial review under subsection 5 (4) or may bring an action to enforce the public's responsibility to protect the environment, including an action in nuisance or an action under section 5.

8. In the trial of an action commenced under this Act, the Court shall not order the posting of security for costs in an amount in excess of \$1,000.

9.—(1) If the activity of the defendant that is the subject-matter of an action is not governed by a standard established under an Act listed in the Schedule or under subsection 5 (3) and if the plaintiff has established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the quality of the environment, the onus shall be on the defendant to establish that there is no feasible and prudent alternative to the activity and that such activity is in the

Environ-
mental rights

Idem

Declaration

Request for
investigation

Written
request

Report

Right of
action

Idem

Court may
determine
standard

Judicial
review

Citizen suit

Idem

Idem

Standing

Security for
costs

Onus

best interests of the public having regard to the purposes of this Act.

Defence

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused, or is likely to cause, severe or irreparable contamination or degradation to the environment.

Prohibited defences

(3) It shall not be a defence to an action commenced under this Act that,

- (a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or
- (b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, if the effect on the environment is of a nature consistent with the contaminant or source of degradation being a cause.

Injunction, etc.

10. In an action commenced under this Act, if it has been established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by the defendant's activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary.

Reference

11.—(1) The Court may, on the motion of any party or on its own motion, refer any question, except the final determination of the issue, to the Board and the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 10.

Expert

12.—(1) In any action under this Act, the Court may appoint an expert, who shall be a disinterested person and qualified as an expert in the relevant field, to give technical and scientific testimony under oath.

(2) The Court may order that the costs of the expert be paid in such manner and by such persons as the Court considers appropriate.

Costs

PART III

CLASS ACTIONS

13.—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons if, in the opinion of the Court,

Class actions

- (a) a question arises in the proceeding that is common to each member of the class;
- (b) the material facts giving rise to the claim for relief of the representatives are similar or related to the material facts giving rise to a claim for relief of the members of the class; and
- (c) the representatives are acting in good faith and in the interests of the class.

(2) For the purposes of clause (1) (b), material facts relating to different transactions or events or contracts shall not be taken to be dissimilar or unrelated for that reason alone.

Idem

(3) The Court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant.

Judgment

(4) If damages payable to members of the class remain uncollected for more than 120 days after payment by the defendant into the Court, the amount of the uncollected damages shall be applied in such manner as the Court may order.

Uncollected damages

PART IV

INSTRUMENTS AND REGULATIONS

14.—(1) In this Part,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment;

“proper authority” means any authority under an Act listed in the Schedule empowered to issue an instrument.

(2) Despite any other Act, no instrument is effective unless the requirements of this section have been met.

Effect of contravention

Notice of
proposed
instrument

(3) If a new instrument or a revision to an existing instrument is proposed, the proper authority shall give notice of the proposal by publishing it in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

Submissions

(4) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice,

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority, request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Idem

(5) The proper authority shall review any written submissions and shall respond in writing to the issues raised therein within a reasonable period of time.

Idem

(6) If a request for a hearing has been made, the proper authority shall refer the matter to the appropriate board unless, in its opinion, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(7) If the proper authority has declined to refer the matter to the appropriate board under subsection (6), it shall give notice of its decision, together with written reasons therefor.

When
instrument
may be
issued

(8) If there is no request for a hearing under subsection (4), the proper authority may issue the proposed instrument not less than ten days after the time for filing such notice has elapsed.

Idem

(9) If there is a request for a hearing under subsection (4) but the proper authority declines to refer the matter to the relevant board, the proper authority may issue the proposed instrument not less than twenty days after the time for filing such notice has elapsed.

Review of
instrument

(10) Any person may apply to the Board for a review of an existing instrument in respect of the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, having particular regard to technological advances that can be applied in the Province of Ontario, and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Notice of
hearing

(11) Where the appropriate board holds a hearing under subsection (6) or (10), the appropriate board shall,

(a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;

(b) cause notice to be given of the hearing,

- (i) to the proper authority,
- (ii) to any person who submitted notice to the proper authority under subsection (4),

(iii) to any person who submitted notice to the Board under subsection (10), and

(iv) to any person that the appropriate board may direct; and

(c) publish notice of the hearing in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

(12) Subject to this Act, any hearing initiated under this section shall be conducted according to the rules and procedures that apply to the appropriate board.

Procedure

(13) The appropriate board may make such order as to costs as it considers just.

Costs

(14) Upon the completion of the hearing, the appropriate board may make such recommendation, order or decision in respect of the matter referred to it under this section as the appropriate board is empowered to make under its enabling Act.

Recommendation, etc.

(15) The proper authority may, in an emergency situation, issue an instrument under an Act listed in the Schedule without complying with the other provisions of this section, but such an instrument shall cease to be effective sixty days from the date on which it is issued.

Emergencies

15.—(1) In this section, “regulation-making authority” means any authority empowered to make any regulation under an Act listed in the Schedule.

Notice of
proposed
regulation

(2) Where a regulation-making authority proposes to make a regulation that may affect the environment, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and shall request briefs or submissions in relation to the proposed regulation.

Publication

(3) The regulation-making authority shall review and consider the submissions received within the sixty-day period and shall respond in writing to the issues raised therein within a reasonable period of time.

Review of
submissions

(4) A regulation filed in contravention of subsection (2) does not come into effect.

Effect of
contravention

Review of
regulations

16.—(1) In 1989 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, having particular regard to technological advances that can be applied in the Province of Ontario.

Public notice

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate.

Report

(3) Upon completion of the review, the Board shall make a report thereon to the Minister, including any recommended changes to the regulations, and the Minister, after receiving the report, shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next session.

PART V

EMPLOYEE RIGHTS

No discipline,
dismissal,
etc., by
employer

17.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to any person an act that contaminates or degrades the environment.

Complaint

(2) A person complaining of a contravention of subsection (1) may file the complaint in writing with the Ontario Labour Relations Board.

Application
of
*Environ-
mental
Protection
Act*

(3) Subsections 134b (4) to (15) of the *Environmental Protection Act* apply with necessary modifications to a complaint under subsection (2).

PART VI

MISCELLANEOUS

Other
remedies
preserved

18. Nothing in this Act affects any other remedies available at law.

19. If there is a conflict between any provision of this Act and any other Act, the provision of this Act prevails.

Conflict

20. This Act binds the Crown.

Crown

21. Subsection 134b (2) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 52, section 22, is amended by striking out “or” at the end of clause (h) and by adding thereto the following clauses:

- (j) the *Conservation Authorities Act*;
- (k) the *Consolidated Hearings Act*, 1981;
- (l) the *Drainage Act*;
- (m) the *Lakes and Rivers Improvement Act*;
- (n) the *Mining Act*;
- (o) the *Niagara Escarpment Planning and Development Act*;
- (p) the *Ontario Waste Management Corporation Act*, 1981;
- (q) the *Pits and Quarries Control Act*; or
- (r) the *Planning Act*, 1983,

22. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

23. The short title of this Act is the *Ontario Environmental Rights Act, 1990*.

Short title

SCHEDULE

Conservation Authorities Act

Consolidated Hearings Act, 1981

Drainage Act

Environmental Assessment Act

Environmental Protection Act

Lakes and Rivers Improvement Act

Mining Act

Niagara Escarpment Planning and Development Act

Ontario Waste Management Corporation Act, 1981

Ontario Water Resources Act

Pesticides Act

Pits and Quarries Control Act

Planning Act, 1983

Bill 24

Government Bill

Projet de loi 24

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 24

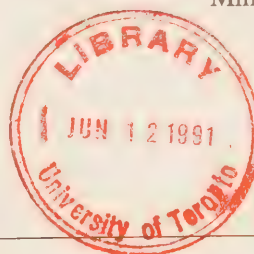
**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

The Hon. E. Gigantes
Minister of Health

Projet de loi 24

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros attri-
bués aux assurés en vertu de la Loi sur
l'assurance-santé**

L'honorable E. Gigantes
Ministre de la Santé



1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

1^{re} lecture 13 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
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EXPLANATORY NOTE

The purpose of this Bill is to control the use of health cards and health numbers by the private sector.

NOTE EXPLICATIVE

Le présent projet de loi a pour objet de contrôler l'usage des cartes Santé et des numéros de cartes Santé dans le secteur privé.

**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros
attribués aux assurés en vertu de la
Loi sur l'assurance-santé**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Definitions

1. In this Act,

“health card” means a card provided to an insured person within the meaning of the *Health Insurance Act* by the General Manager of the Ontario Health Insurance Plan; (“carte Santé”)

“health number” means a number assigned to an insured person within the meaning of the *Health Insurance Act* by the General Manager of the Ontario Health Insurance Plan; (“numéro de la carte Santé”)

“provincially funded health resource” means a service, thing, subsidy or other benefit funded, in whole or in part, directly or indirectly by the Province that is health related or that is prescribed by the regulations. (“ressource en matière de santé subventionnée par la province”)

Privacy re:
health cards,
numbers

2.—(1) No person shall require the production of another person's health card or collect or use another person's health number.

Exceptions

(2) Despite subsection (1), a person may collect or use another person's health number for purposes related to the provision of provincially funded health resources to that other person. In addition, a person who provides a provincially funded health resource to a person who has a health card or health number,

- (a) may require the production of the health card; or
- (b) may collect or use the health number for purposes related to health administration or planning or health research or epidemiological studies.

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

«carte Santé» Carte fournie, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health card»)

«numéro de la carte Santé» Numéro attribué, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health number»)

«ressource en matière de santé subventionnée par la province» Service, chose, subside ou autre avantage qui est subventionné, en tout ou en partie, directement ou indirectement par la province et qui est relatif à la santé ou prescrit par les règlements. («provincially funded health resource»)

2 (1) Nul ne doit demander la production de la carte Santé d'une autre personne ni obtenir ou utiliser le numéro de la carte Santé d'une autre personne.

Secret concernant les cartes Santé et les numéros

Exceptions

(2) Malgré le paragraphe (1), une personne peut obtenir ou utiliser le numéro de la carte Santé d'une autre personne à des fins liées à la prestation à cette autre personne d'une ressource en matière de santé subventionnée par la province. En outre, la personne qui fournit une ressource en matière de santé subventionnée par la province à une personne qui a une carte Santé ou un numéro de carte Santé peut, selon le cas :

- a) demander la production de la carte Santé;
- b) obtenir ou utiliser le numéro de la carte Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Exception,
prescribed
persons

(3) Despite subsection (1), a person prescribed by the regulations may collect or use health numbers for purposes related to health administration or planning or health research or epidemiological studies.

(3) Malgré le paragraphe (1), les personnes prescrites par les règlements peuvent obtenir ou utiliser des numéros de cartes Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

Exception
concernant
les personnes
prescrites

Exception,
professional
governing
bodies

(4) Despite subsection (1), the governing body of a health profession whose members provide provincially funded health resources may collect or use health numbers for purposes related to its duties or powers.

(4) Malgré le paragraphe (1), le corps professionnel dirigeant d'une profession de la santé dont les membres fournissent des ressources en matière de santé subventionnées par la province peut obtenir ou utiliser des numéros de cartes Santé à des fins liées à ses fonctions ou pouvoirs.

Exception
concernant
les corps pro-
fessionnels
dirigeants

Offence

3.—(1) Every person who contravenes subsection 2 (1) is guilty of an offence.

3 (1) Quiconque enfreint le paragraphe 2 (1) est coupable d'une infraction.

Infraction

Penalty,
individuals

(2) An individual who is convicted of an offence is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

(2) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$ et d'une peine d'emprisonnement d'au plus six mois, ou d'une seule de ces peines.

Peine,
particuliers

Penalty,
corporations

(3) A corporation that is convicted of an offence is liable to a fine of not more than \$25,000.

(3) La personne morale qui est reconnue coupable d'une infraction est passible d'une amende d'au plus 25 000 \$.

Peine, per-
sonnes mora-
les

Regulations

4. The Lieutenant Governor in Council may make regulations,

4 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

(a) prescribing services, things, subsidies or other benefits funded, in whole or in part, directly or indirectly by the Province as provincially funded health resources; and

a) prescrire les services, choses, subsides ou autres avantages subventionnés, en tout ou en partie, directement ou indirectement par la province à titre de ressources en matière de santé subventionnées par la province;

(b) prescribing persons or classes of persons for the purposes of subsection 2 (3).

b) prescrire les personnes ou catégories de personnes pour l'application du paragraphe 2 (3).

Commence-
ment

5. This Act comes into force on the later of,

5 La présente loi entre en vigueur à celle des dates suivantes qui est postérieure à l'autre :

Entrée en
vigueur

(a) the 1st day of January, 1991; or

a) le 1^{er} janvier 1991;

(b) the day it receives Royal Assent.

b) le jour où elle reçoit la sanction royale.

Short title

6. The short title of this Act is the *Health Cards and Numbers Control Act, 1990*.

6 Le titre abrégé de la présente loi est *Loi de 1990 sur le contrôle des cartes Santé et des numéros de cartes Santé*.

Titre abrégé

Bill 24

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 24

*(Chapter 1
Statutes of Ontario, 1991)*

**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

The Hon. E. Gigantes
Minister of Health

1st Reading	December 13th, 1990
2nd Reading	March 20th, 1991
3rd Reading	April 3rd, 1991
Royal Assent	April 4th, 1991

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Projet de loi 24

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Projet de loi 24

*(Chapitre 1
Lois de l'Ontario de 1991)*

**Loi contrôlant l'usage dans le secteur
privé des cartes et des numéros
attribués aux assurés en vertu de la Loi
sur l'assurance-santé**

L'honorable E. Gigantes
Ministre de la Santé



1 ^{re} lecture	13 décembre 1990
2 ^e lecture	20 mars 1991
3 ^e lecture	3 avril 1991
sanction royale	4 avril 1991

Imprimé avec l'autorisation
de l'Assemblée législative par
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**An Act to control the private use of
Cards issued and Numbers assigned to
Insured Persons under the Health
Insurance Act**

**Loi contrôlant l'usage dans le secteur
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1 Les définitions qui suivent s'appliquent à la présente loi.

«carte Santé» Carte fournie, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health card»)

«numéro de la carte Santé» Numéro attribué, par le directeur général du Régime d'assurance-santé de l'Ontario, à un assuré au sens de la *Loi sur l'assurance-santé*. («health number»)

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2.—(1) No person shall require the production of another person's health card or collect or use another person's health number.

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Secret concernant les cartes Santé et les numéros

Exceptions

(2) Despite subsection (1), a person may collect or use another person's health number for purposes related to the provision of provincially funded health resources to that other person. In addition, a person who provides a provincially funded health resource to a person who has a health card or health number,

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- (a) may require the production of the health card; or
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b) obtenir ou utiliser le numéro de la carte Santé à des fins liées à l'administration ou la planification en matière de santé, à la recherche dans le domaine de la santé ou à des études épidémiologiques.

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Exception
concernant
les personnes
prescrites

Exception,
professional
governing
bodies

(4) Despite subsection (1), the governing body of a health profession whose members provide provincially funded health resources may collect or use health numbers for purposes related to its duties or powers.

(4) Malgré le paragraphe (1), le corps professionnel dirigeant d'une profession de la santé dont les membres fournissent des ressources en matière de santé subventionnées par la province peut obtenir ou utiliser des numéros de cartes Santé à des fins liées à ses fonctions ou pouvoirs.

Exception
concernant
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3.—(1) Every person who contravenes subsection 2 (1) is guilty of an offence.

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Infraction

Penalty,
individuals

(2) An individual who is convicted of an offence is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

(2) Le particulier qui est reconnu coupable d'une infraction est passible d'une amende d'au plus 5 000 \$ et d'une peine d'emprisonnement d'au plus six mois, ou d'une seule de ces peines.

Peine,
particuliers

Penalty,
corporations

(3) A corporation that is convicted of an offence is liable to a fine of not more than \$25,000.

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sonnes mora-
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Regulations

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(a) prescribing services, things, subsidies or other benefits funded, in whole or in part, directly or indirectly by the Province as provincially funded health resources; and

a) prescrire les services, choses, subsides ou autres avantages subventionnés, en tout ou en partie, directement ou indirectement par la province à titre de ressources en matière de santé subventionnées par la province;

(b) prescribing persons or classes of persons for the purposes of subsection 2 (3).

b) prescrire les personnes ou catégories de personnes pour l'application du paragraphe 2 (3).

Commence-
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5. This Act comes into force on the later of,

5 La présente loi entre en vigueur à celle des dates suivantes qui est postérieure à l'autre :

Entrée en
vigueur

(a) the 1st day of January, 1991; or

a) le 1^{er} janvier 1991;

(b) the day it receives Royal Assent.

b) le jour où elle reçoit la sanction royale.

Short title

6. The short title of this Act is the *Health Cards and Numbers Control Act, 1991*.

6 Le titre abrégé de la présente loi est *Loi de 1991 sur le contrôle des cartes Santé et des numéros de cartes Santé*.

Titre abrégé

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Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

**An Act to amend the
Planning Act, 1983 and the Land Titles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983* is amended by adding the following section:

Division of
land by will

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

Retroactive
effect

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

Tenants in
common

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

Commence-
ment

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1990*.

Short title

Bill 25

Government Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke

Minister of Municipal Affairs



1st Reading December 13th, 1990
2nd Reading June 10th, 1991
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

An Act to amend the Planning Act, 1983 and the Land Titles Act

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Retroactive
effect

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

Tenants in
common

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

Special case

(4) Despite subsections (1), (2) and (3), the Minister may by order give effect to all or any part of a provision in a will purporting to subdivide land if the person who made the

will died before the day on which this section comes into force.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order.

Consent of
local council

(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates.

Condition

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992.

Repeal

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

Commence-
ment

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*.

Short title

Bill 25

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading December 13th, 1990
2nd Reading June 10th, 1991
3rd Reading
Royal Assent

(Reprinted as further amended by the Committee of the Whole House on June 20th, 1991)

EXPLANATORY NOTE

The proposed section 49a would prohibit the subdivision of land by will unless the land could already be conveyed without contravening the subdivision control provisions of the Act.

An Act to amend the Planning Act, 1983 and the Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983* is amended by adding the following section:

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

(3) If a provision in a will is of no effect to subdivide land under subsection (1), the beneficiaries that would have been entitled to the land if the provision had been effective shall hold the undivided land as tenants in common.

(4) Despite subsections (1), (2) and (3), the Minister may by order give effect to all or any part of a provision in a will purporting to subdivide land if the person who made the will died after the 26th day of July, 1990 and

before the *Planning Statute Law Amendment Act, 1991* received Royal Assent.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order.

(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates.

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992.

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990.

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*.

Division of
land by will

Retroactive
effect

Tenants in
common

Special case

Consent of
local council

Condition

Repeal

Commence-
ment

Short title

Bill 25

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 25

(Chapter 9
Statutes of Ontario, 1991)

An Act to amend the Planning Act, 1983 and the Land Titles Act

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading	December 13th, 1990
2nd Reading	June 10th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

An Act to amend the Planning Act, 1983 and the Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983* is amended by adding the following section:

Division of
land by will

49a.—(1) No provision in a will that purports to subdivide land is of any effect to subdivide that land unless, irrespective of that provision, each part of the land divided could be conveyed without contravening section 49.

Retroactive
effect

(2) Subsection (1) applies even though the will was made before the 26th day of July, 1990 unless the person who made the will died on or before that date.

Tenants in
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Special case

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before the *Planning Statute Law Amendment Act, 1991* received Royal Assent.

(5) No order shall be made by the Minister in respect of land situate in a local municipality unless the council of the local municipality has by by-law requested the Minister to make the order. Consent of
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(6) A council may, as a condition to passing a by-law under subsection (5), impose conditions in respect of the land to which the by-law relates. Condition

(7) Subsections (4), (5) and (6) are repealed on the 26th day of July, 1992. Repeal

2. Paragraph 12 of subsection 47 (1) of the *Land Titles Act*, is repealed and the following substituted:

12. Sections 49 and 49a of the *Planning Act, 1983*.

3. This Act shall be deemed to have come into force on the 26th day of July, 1990. Commence-
ment

4. The short title of this Act is the *Planning Statute Law Amendment Act, 1991*. Short title

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Bill 26

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 26

An Act to require the Recycling of Lead Acid Batteries



Mrs. Sullivan

1st Reading December 13th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to require the recycling of lead acid batteries. Consumers and retailers would be prohibited from disposing of batteries except by delivery to a manufacturer, wholesaler, secondary lead smelter or designated recycling facility, or, in the case of consumers, to a retailer. Disposal by a manufacturer, wholesaler, secondary lead smelter or recycling facility would be prohibited if the disposal was done in such a manner that chemicals from the battery might be emitted into water or air.

Retailers would be required to accept from consumers who purchased batteries equivalent used batteries, and a similar requirement would apply in the case of wholesalers who sold to retailers. Retailers would be required to post notices indicating their obligation to accept used batteries from purchasers.

An Act to require the Recycling of Lead Acid Batteries

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“battery” means a device designed to furnish or store electrical current produced through chemical reactions involving acid and lead;

“consumer” means a person in possession of a battery other than a battery manufacturer, a battery wholesaler, a battery retailer, an owner or operator of a secondary lead smelter or an owner or operator of a battery collection facility;

“record” includes a book of account, bank book, voucher, receipt, correspondence and any other document regardless of whether the record is on paper or is in electronic, photographic or other form.

Disposal by consumers

2.—(1) No consumer shall dispose of a battery except by delivery to a battery manufacturer, a battery retailer, a battery wholesaler, a secondary lead smelter or a battery collection facility designated by the Director.

Exception

(2) Subsection (1) does not prohibit the transfer of a battery from a consumer to another person that is made with the intention that that other person will use the battery.

Disposal by retailers

(3) No battery retailer shall dispose of a battery except by delivery to a battery manufacturer, a battery wholesaler, a secondary lead smelter or a collection facility designated by the Director.

Disposal by manufacturers and others

(4) No battery manufacturer, battery wholesaler, or owner or operator of a secondary lead smelter or battery collection facility shall dispose of a battery in such a manner that any chemicals from the battery may be emitted into the air or any waters.

Retailers required to post notice

3.—(1) Every battery retailer shall post in a conspicuous place in the retail premises a written notice measuring not less than eight and one-half inches by eleven inches that indicates that,

- (a) consumers may not lawfully dispose of batteries except by delivery to a retailer;
- (b) consumers should recycle their used batteries; and
- (c) the retailer is required by law to accept from a consumer who purchases a battery a used battery of the same type.

(2) A retailer who sells a battery to a consumer shall accept any used battery delivered by the consumer that is of the same type as the battery that is sold, but nothing in this subsection requires the retailer to accept a greater number of batteries than are sold to the consumer.

Retailers required to accept used batteries

4. A battery wholesaler who sells a battery shall accept any used battery delivered by the purchaser that is of the same type as the battery that is sold, but nothing in this subsection requires the wholesaler,

Wholesalers required to accept used batteries

- (a) to accept a greater number of batteries than are sold to the purchaser; or
- (b) to accept delivery unless the purchaser provides ninety days notice of the delivery.

5.—(1) The Minister shall appoint a Director for the purpose of administering this Act.

Appointment of Director

(2) The Minister may appoint investigators for the purpose of determining whether this Act is being complied with.

Appointment of investigators

(3) The Minister shall issue a certificate of appointment bearing the Minister's signature or a facsimile of it to every investigator.

Certificate of appointment

(4) An investigator who is exercising any powers or performing any duties under this Act shall produce his or her certificate of appointment upon request.

Production of certificate

6.—(1) An investigator shall carry out the duties assigned to him or her by the Director.

Duties of investigators

(2) An investigator may carry out an investigation under this Act whether or not the investigator has any reason to believe

Investigation may be carried out

that the person being investigated has contravened this Act.

Powers of
investigators

(3) For the purpose of carrying out an investigation, an investigator may,

- (a) enter any place at any reasonable time;
- (b) require the production of any records or other things that may be relevant to the investigation; and
- (c) inspect any records or other things referred to in clause (b); or
- (d) inquire into any matters that may be relevant to the investigation.

Power to
remove
things

(4) Upon giving a receipt for them, an investigator may remove from a place any records or other things relevant to the investigation,

- (a) to make copies of or extracts from them;
- (b) to examine or test them; and
- (c) to hold them as evidence.

Return

(5) An investigator shall promptly return any records or other things removed under subsection (4) unless they are being held as evidence.

Expert
assistance

(6) An investigator may call upon any expert he or she considers necessary to assist in carrying out an investigation.

Powers not
to be
exercised

(7) An investigator shall not, except under the authority of a warrant issued under section 7,

- (a) use force to exercise any of his or her powers under this section;
- (b) enter, or exercise any of his or her other powers under this section in, a place that is being used as a dwelling without the consent of the occupier.

Adminis-
trative
warrant

7.—(1) With respect to a place that is not being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place and exercise any of his or her other powers under section 6 if satisfied by information upon oath that it is reasonably necessary for the investigator to do so in order to determine whether this Act is being complied with.

Warrant if
contravention
suspected

(2) With respect to any place, whether or not it is being used as a dwelling, a justice of the peace may issue a warrant authorizing an investigator to enter the place, exercise any of his or her other powers under section 6 and search the place for any records or other things relevant to an investigation if satisfied by information upon oath that there are reasonable grounds to believe that a person in the place has contravened or is about to contravene this Act or that there are in the place

records or other things that will afford evidence of a contravention.

(3) An investigator acting under a warrant shall promptly return any records or other things removed from a place unless they are being held as evidence.

(4) A warrant shall specify the hours and days during which it may be executed and name a date on which it expires, which date shall not be later than thirty days after its issue.

(5) A warrant shall be executed between the hours of 7 a.m. and 9 p.m., unless it provides otherwise.

(6) A warrant authorizes the investigator,

- (a) to use whatever force is necessary to execute the warrant;

- (b) to call on police officers as necessary to assist in executing the warrant;

- (c) to call upon any expert he or she considers necessary to assist in executing the warrant; and

- (d) to use any data storage, processing or retrieval device or system necessary to produce a record in readable form.

(7) A justice of the peace may extend the date on which a warrant expires for a period of no more than thirty days before or after the warrant expires upon motion by the person named in it.

8.—(1) Despite subsection 6 (7), an investigator may enter a place, whether or not it is being used as a dwelling, exercise any of his or her other powers under section 6 and search the place for any records or other things relevant to an investigation if the investigator believes on reasonable and probable grounds that there is sufficient evidence for the issue of a warrant but that evidence of a contravention of this Act could be destroyed, lost or removed before a warrant is obtained.

(2) Subsections 7 (3) and (6) apply with necessary modifications to an investigator acting under this section.

(3) An investigator who enters a place under this section and removes any records or other things shall appear before a justice of the peace as soon as practicable and shall produce all records removed and, if requested by the justice, any other things removed.

(4) A justice before whom an investigator appears under subsection (3) may by order detain any records or other things removed or direct them to be returned.

9. A copy of or extract from a record made as a result of an investigation is admis-

Return of
things
removed

Execution
and expiry

Time of
execution

Investigator
authorized by
warrant

Extension of
time

Search
without
warrant if
evidence
could be lost

Idem

Appearance
before justice

Idem

Admissibility
of copies

sible in evidence as proof, in the absence of evidence to the contrary, of the original if it is certified as being a true copy of or extract from the original by the person who made it.

Obstruction

10.—(1) No person shall,

- (a) obstruct an investigator who is exercising a power or performing a duty under this Act;
- (b) withhold or refuse permission for an investigator to enter any place that is not being used as a dwelling;
- (c) withhold or refuse to provide any information required by an investigator for the purposes of an investigation; or
- (d) withhold, refuse to produce or destroy any record or other thing required by an investigator for the purposes of an investigation.

Person to
assist with
records

(2) A person who is required to produce a record for an investigator shall, on request, provide whatever assistance is reasonably necessary, including using any data storage,

processing or retrieval device or system to produce a record in readable form.

11. The Director may designate battery collection facilities for the purposes of section 2.

Director may
authorize
collection
facilities

12. The Director may arrange for the printing and distribution to retailers of written notices that comply with the requirements of subsection 3 (1).

Director may
print,
distribute
notices

13.—(1) Every person who contravenes this Act is guilty of an offence and on conviction is liable to a fine of not more than \$500.

Offence

(2) If a person disposes of more than one battery in contravention of this Act, the disposal of each battery shall be considered a separate offence.

Idem

14. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

15. The short title of this Act is the *Lead Acid Batteries Recycling Act, 1990*.

Short title

2 ON
B
56

Bill 27

An Act to amend the Mental Health Act

Mr. Callahan



1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The proposed amendments to the *Mental Health Act* relate to section 35a of the Act. Under subsection 35a (4), the review board may make an order authorizing the giving of specified psychiatric treatment to a patient who is not mentally competent.

The new subsection 35a (10a) provides that an appeal to the District Court of an order made by the review board under subsection (4) shall be heard within thirty days after the appeal is perfected or within such longer period as is agreed to by the parties.

The new subsection 35a (11a) supplements subsection 35a (11). Subsection (11) provides that where a party appeals an order of the review board authorizing the providing of specified treatment, the treatment shall not be provided pending the outcome of the appeal, unless otherwise ordered by a judge of the court appealed to. Subsection (11a) provides that a judge may on motion make an interim order authorizing the providing of the treatment.

An Act to amend the Mental Health Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35a of the *Mental Health Act*, as enacted by the Statutes of Ontario, 1987, chapter 37, section 12, is amended by adding the following subsections:

(10a) An appeal of an order made under subsection (4) shall be heard within thirty days after the appeal is perfected or such longer period as is agreed to by the parties. Date for
appeal

(11a) On an appeal referred to in subsection (11), a judge may on motion make an interim order authorizing the providing of the treatment or course of treatment specified in the order made under subsection (4) pending the outcome of the appeal. Interim order

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Mental Health Amendment Act, 1990*. Short title

ON
XB
B56

Bill 28

Government Bill

Projet de loi 28

du gouvernement

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 28

An Act respecting Class Proceedings

The Hon. H. Hampton
Attorney General

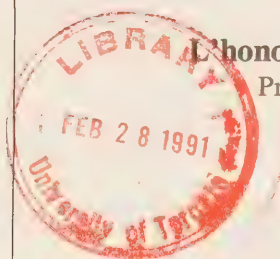
1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

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Projet de loi 28

Loi concernant les recours collectifs



L'honorable H. Hampton
Procureur général

1^{re} lecture 17 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

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EXPLANATORY NOTES

The purpose of the Bill is to facilitate class proceedings in Ontario. The principal provisions of the Bill are as follows:

1. Class proceedings may be initiated in three ways. A member of a class of persons may commence a proceeding on behalf of the class. A person who commences such a proceeding must make a motion to the court to have the proceeding certified as a class proceeding and to be appointed representative plaintiff (section 2). A defendant to two or more proceedings may move to have the proceedings certified as a class proceeding and a representative plaintiff appointed (section 3). As well, a party to a proceeding against two or more defendants may move to have the proceeding certified as a class proceeding and a representative defendant appointed (section 4).
2. The court is given guidance as to when to certify a class proceeding (sections 5 and 6).
3. Class members may opt out of a class proceeding (section 9).
4. The court may make any appropriate order concerning the conduct of a class proceeding to ensure its fair and expeditious determination (section 12). The court may stay any proceeding related to a class proceeding (section 13).
5. Class members may be permitted by the court to participate in a class proceeding (section 14). Discovery of class members and examination of class members before a motion or application is permitted in certain circumstances (sections 15 and 16).
6. There is provision for notice to class members when a class proceeding is certified and when individual participation is required to determine individual issues (sections 17 and 18). The court may also order notice to class members at any time to protect the interests of class members or parties (section 19).
7. Statistical information may be admitted as evidence in a class proceeding in certain circumstances (section 23).
8. The court may determine the aggregate or any part of a defendant's liability to class members and give judgment accordingly (section 24).
9. The court may require the participation of class members in order to determine individual issues and may, for the purpose, select appropriate procedures (section 25).
10. The court has a wide discretion as to how awards made in a class proceeding are to be distributed (section 26).
11. The extent to which a judgment on common issues binds class members is addressed (section 27). The question of limitation periods is also addressed (section 28).
12. Discontinuance, abandonment and settlement of a class proceeding require the approval of the court (section 29).
13. There is provision for appeals of orders made in a class proceeding (section 30).

NOTES EXPLICATIVES

Le projet de loi a pour but de faciliter les recours collectifs en Ontario. En voici les principales dispositions :

1. Les recours collectifs peuvent être introduits de trois façons différentes. Tout membre d'un groupe de personnes peut introduire une instance au nom du groupe et, à cette fin, doit demander au tribunal, par voie de motion, de certifier que l'instance constitue un recours collectif et de le nommer représentant des demandeurs (article 2). Le défendeur dans plusieurs instances peut également demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des demandeurs soit nommé (article 3). Une partie à une instance introduite contre plusieurs défendeurs peut encore demander, par voie de motion, que l'instance soit certifiée comme recours collectif et qu'un représentant des défendeurs soit nommé (article 4).
2. Le projet de loi présente au tribunal des lignes directrices lui permettant de décider dans quelles circonstances certifier un recours collectif (articles 5 et 6).
3. Les membres du groupe peuvent se retirer d'un recours collectif (article 9).
4. Le tribunal peut, afin de parvenir à un règlement juste et expéditif, rendre les ordonnances appropriées concernant le déroulement du recours collectif (article 12). Il peut surseoir à une instance liée au recours collectif (article 13).
5. Le tribunal peut permettre aux membres du groupe de participer à un recours collectif (article 14). L'enquête préalable et l'interrogatoire de membres du groupe avant l'audition d'une motion ou d'une requête sont permis dans certaines circonstances (articles 15 et 16).
6. Le projet de loi prévoit qu'un avis est donné aux membres du groupe lorsque le recours collectif est certifié et que la participation, à titre individuel, des membres est nécessaire pour décider les questions individuelles (articles 17 et 18). Le tribunal peut aussi ordonner, en tout temps, qu'un avis soit donné aux membres du groupe afin de protéger leurs intérêts ou ceux des parties (article 19).
7. Dans certaines circonstances, les données statistiques peuvent être admises en preuve dans un recours collectif (article 23).
8. Le tribunal peut établir la totalité ou une partie de la responsabilité du défendeur envers les membres du groupe et rendre un jugement en conséquence (article 24).
9. Le tribunal peut demander la participation des membres du groupe afin de décider les questions individuelles et, à cette fin, peut choisir la procédure appropriée (article 25).
10. Le tribunal est investi d'un pouvoir discrétionnaire étendu pour décider de la façon dont les montants adjugés lors d'un recours collectif seront distribués (article 26).
11. Le projet de loi traite de la mesure dans laquelle les jugements rendus sur les questions communes lient les membres du groupe (article 27). Il traite également des délais de prescription (article 28).
12. Le désistement d'un recours collectif et la transaction obtenue dans le cadre de ce dernier doivent être approuvés par le tribunal (article 29).
13. Le projet de loi prévoit la possibilité d'interjeter appel des ordonnances rendues dans les recours collectifs (article 30).

14. An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court (section 32). A solicitor may enter into an agreement with a representative party for payment of fees and disbursements only in the event of success in a class proceeding (section 33).

14. L'entente conclue entre un procureur et un représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal (article 32). Un procureur et un représentant peuvent conclure une entente qui ne prévoit le paiement des honoraires et des débours qu'en cas d'issue favorable du recours collectif (article 33).

An Act respecting Class Proceedings**Loi concernant les recours collectifs****CONTENTS**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

Definitions

1. In this Act,

“common issues” means,

- (a) common but not necessarily identical issues of fact, or
- (b) common but not necessarily identical issues of law that arise from common but not necessarily identical facts; (“questions communes”)

“court” means the Ontario Court (General Division) but does not include the Small Claims Court; (“tribunal”)

“defendant” includes a respondent; (“défendeur”)

“plaintiff” includes an applicant. (“demandeur”)

Plaintiff's class proceeding

2.—(1) One or more members of a class of persons may commence a proceeding in the court on behalf of the members of the class.

Motion for certification

(2) A person who commences a proceeding under subsection (1) shall make a motion to a judge of the court for an order certifying the proceeding as a class proceeding and appointing the person representative plaintiff.

Idem

(3) A motion under subsection (2) shall be made,

- (a) within ninety days after the later of,
 - (i) the date on which the last statement of defence, notice of intent to defend or notice of appearance is delivered, and
 - (ii) the date on which the time prescribed by the rules of court for delivery of the last statement of defence, notice of intent to defend or a notice of appearance expires without its being delivered; or
- (b) subsequently, with leave of the court.

Defendant's class proceeding

3. A defendant to two or more proceedings may, at any stage of one of the proceedings, make a motion to a judge of the court for an order certifying the proceedings as a class proceeding and appointing a representative plaintiff.

Classing defendants

4. Any party to a proceeding against two or more defendants may, at any stage of the proceeding, make a motion to a judge of the

1 Les définitions qui suivent s'appliquent à la présente loi.

«défendeur» S'entend en outre d'un intimé. («defendant»)

«demandeur» S'entend en outre d'un requérant. («plaintiff»)

«questions communes» S'entend, selon le cas :

- a) de questions de fait communes, mais pas nécessairement identiques,
- b) de questions de droit communes, mais pas nécessairement identiques, qui découlent de faits communs, mais pas nécessairement identiques. («common issues»)

«tribunal» La Cour de l'Ontario (Division générale), à l'exclusion de la Cour des petites créances. («court»)

2 (1) Une instance peut être introduite devant le tribunal au nom des membres d'un groupe de personnes par un ou plusieurs membres du groupe.

(2) La personne qui introduit une instance en vertu du paragraphe (1) demande à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que l'instance est un recours collectif et nommant la personne représentant des demandeurs.

(3) La motion visée au paragraphe (2) est présentée, selon le cas :

- a) dans les quatre-vingt-dix jours après celle des deux dates suivantes qui est postérieure à l'autre :
 - (i) la date à laquelle la dernière défense, le dernier avis d'intention de présenter une défense ou le dernier avis de comparution a été remis,
 - (ii) la date à laquelle expire le délai prescrit par les règles de pratique pour la remise de la dernière défense, du dernier avis d'intention de présenter une défense ou du dernier avis de comparution sans que celui-ci n'ait été remis;
- b) par la suite, avec l'autorisation du tribunal.

3 Le défendeur dans plusieurs instances peut, en tout temps au cours de l'une des instances, demander à un juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que les instances sont un recours collectif et nommant un représentant des demandeurs.

4 Toute partie à une instance introduite contre plusieurs défendeurs peut, en tout temps au cours de l'instance, demander à un

Définitions

Recours collectif du demandeur

Motion en vue de faire certifier le recours collectif

Idem

Le défendeur fait certifier le recours collectif

Groupe de défendeurs

court for an order certifying the proceeding as a class proceeding and appointing a representative defendant.

Certification

5.—(1) The court shall certify a class proceeding on a motion under section 2, 3 or 4 if,

- (a) the pleadings or the notice of application discloses a cause of action;
- (b) there is an identifiable class of two or more persons that would be represented by the representative plaintiff or defendant;
- (c) the claims or defences of the class members raise common issues;
- (d) a class proceeding would be the preferable procedure for the resolution of the common issues; and
- (e) there is a representative plaintiff or defendant who,
 - (i) would fairly and adequately represent the interests of the class,
 - (ii) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and
 - (iii) does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

Idem,
subclass
protection

(2) Despite subsection (1), where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, the court shall not certify the class proceeding unless there is a representative plaintiff or defendant who,

- (a) would fairly and adequately represent the interests of the subclass;
- (b) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the subclass and of notifying subclass members of the proceeding; and
- (c) does not have, on the common issues for the subclass, an interest in conflict with the interests of other subclass members.

juge du tribunal, par voie de motion, de rendre une ordonnance certifiant que l'instance est un recours collectif et nommant un représentant des défendeurs.

5 (1) Le tribunal saisi d'une motion visée à l'article 2, 3 ou 4 certifie qu'il s'agit d'un recours collectif si les conditions suivantes sont réunies :

Recours collectif certifié par le tribunal

- a) les actes de procédure ou l'avis de requête révèlent une cause d'action;
- b) il existe un groupe identifiable de deux personnes ou plus qui se ferait représenter par le représentant des demandeurs ou des défendeurs;
- c) les demandes ou les défenses des membres du groupe soulèvent des questions communes;
- d) le recours collectif est le meilleur moyen de régler les questions communes;
- e) il y a un représentant des demandeurs ou des défendeurs qui :
 - (i) représenterait de façon équitable et approprié les intérêts du groupe,
 - (ii) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom du groupe et d'aviser les membres du groupe de l'instance,
 - (iii) n'a pas de conflit d'intérêts avec d'autres membres du groupe, en ce qui concerne les questions communes du groupe.

(2) Malgré le paragraphe (1), s'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le tribunal ne doit pas certifier qu'il s'agit d'un recours collectif, à moins qu'il n'y ait un représentant des demandeurs ou des défendeurs qui :

Idem, protection du sous-groupe

- a) représenterait de façon équitable et appropriée les intérêts du sous-groupe;
- b) a préparé un plan pour l'instance qui propose une méthode efficace de faire avancer l'instance au nom du sous-groupe et d'aviser les membres du sous-groupe de l'instance;
- c) n'a pas de conflit d'intérêts avec d'autres membres du sous-groupe, en ce qui concerne les questions communes du sous-groupe.

Evidence as to size of class

(3) Each party to a motion for certification shall, in an affidavit filed for use on the motion, provide the party's best information on the number of members in the class.

Adjournments

(4) The court may adjourn the motion for certification to permit the parties to amend their materials or pleadings or to permit further evidence.

Certification not a ruling on merits

(5) An order certifying a class proceeding is not a determination of the merits of the proceeding.

Certain matters not bar to certification

6. The court shall not refuse to certify a proceeding as a class proceeding solely on any of the following grounds:

1. The relief claimed includes a claim for damages that would require individual assessment after determination of the common issues.
2. The relief claimed relates to separate contracts involving different class members.
3. Different remedies are sought for different class members.
4. The number of class members or the identity of each class member is not known.
5. The class includes a subclass whose members have claims or defences that raise common issues not shared by all class members.

Refusal to certify: proceeding may continue in altered form

7. Where the court refuses to certify a proceeding as a class proceeding, the court may permit the proceeding to continue as one or more proceedings between different parties and, for the purpose, the court may,

- (a) order the addition, deletion or substitution of parties;
- (b) order the amendment of the pleadings or notice of application; and
- (c) make any further order that it considers appropriate.

Contents of certification order

8.—(1) An order certifying a proceeding as a class proceeding shall,

- (a) describe the class;
- (b) state the names of the representative parties;

(3) Chaque partie à la motion en vue de faire certifier le recours collectif fournit, au moyen d'un affidavit déposé à l'appui de la motion, les renseignements les plus exacts possibles sur le nombre de membres du groupe.

Importance du groupe

(4) Le tribunal peut ajourner la motion en vue de faire certifier le recours collectif afin de permettre aux parties de modifier leurs documents ou leurs actes de procédure ou d'autoriser la présentation d'éléments de preuve supplémentaires.

Ajournement

(5) L'ordonnance certifiant qu'il s'agit d'un recours collectif ne constitue pas une décision sur le fond de l'instance.

Ordonnance ne constituant pas une décision sur le fond

6 Le tribunal ne doit pas refuser de certifier qu'une instance est un recours collectif en se fondant uniquement sur l'un des motifs suivants :

Questions n'empêchant pas de faire certifier le recours collectif

1. Les mesures de redressement demandées comprennent une demande de dommages-intérêts qui exigerait, une fois les questions communes décidées, une évaluation individuelle.
2. Les mesures de redressement demandées portent sur des contrats distincts concernant différents membres du groupe.
3. Des mesures correctives différentes sont demandées pour différents membres du groupe.
4. Le nombre de membres du groupe ou l'identité de chaque membre est inconnu.
5. Il existe au sein du groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe.

7 S'il refuse de certifier qu'une instance est un recours collectif, le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties et, à cette fin, le tribunal peut :

Continuation de l'instance sous une autre forme après refus de certifier

- a) ordonner la jonction, la radiation ou la substitution des parties;
- b) ordonner la modification des actes de procédure ou de l'avis de requête;
- c) rendre toute autre ordonnance qu'il estime appropriée.

8 (1) L'ordonnance certifiant que l'instance est un recours collectif :

Contenu de l'ordonnance

- a) décrit le groupe;
- b) indique le nom des représentants;

	<p>(c) state the nature of the claims or defences asserted on behalf of the class;</p> <p>(d) state the relief sought by or from the class;</p> <p>(e) set out the common issues for the class; and</p> <p>(f) specify the manner in which class members may opt out of the class proceeding and a date after which class members may not opt out.</p>	<p>c) indique la nature des demandes ou des défenses présentées au nom du groupe;</p> <p>d) indique les mesures de redressement demandées par le groupe ou au groupe;</p> <p>e) énonce les questions communes du groupe;</p> <p>f) précise la façon dont les membres du groupe peuvent se retirer du recours collectif et la date limite pour ce faire.</p>	
Subclass protection	<p>(2) Where a class includes a subclass whose members have claims or defences that raise common issues not shared by all the class members, so that, in the opinion of the court, the protection of the interests of the subclass members requires that they be separately represented, subsection (1) applies with necessary modifications in respect of the subclass.</p>	<p>(2) S'il existe au sein d'un groupe un sous-groupe dont les demandes ou les défenses soulèvent des questions communes que ne partagent pas tous les membres du groupe de sorte que, de l'avis du tribunal, la protection des intérêts des membres du sous-groupe demande qu'ils aient un représentant distinct, le paragraphe (1) s'applique, avec les adaptations nécessaires, au sous-groupe.</p>	Protection du sous-groupe
Amendment of certification order	<p>(3) The court, on the motion of a party or class member, may amend an order certifying a proceeding as a class proceeding.</p>	<p>(3) Le tribunal peut, sur motion présentée par une partie ou un membre du groupe, modifier l'ordonnance certifiant qu'une instance est un recours collectif.</p>	Modification de l'ordonnance
Opting out	<p>9. Any member of a class involved in a class proceeding may opt out of the proceeding in the manner and within the time specified in the certification order.</p>	<p>9 Tout membre d'un groupe qui exerce un recours collectif peut s'en retirer de la façon et dans le délai précisés dans l'ordonnance certifiant le recours collectif.</p>	Décision de se retirer
Where it appears conditions for certification not satisfied	<p>10.—(1) On the motion of a party or class member, where it appears to the court that the conditions mentioned in subsections 5 (1) and (2) are not satisfied with respect to a class proceeding, the court may amend the certification order, may decertify the proceeding or may make any other order it considers appropriate.</p>	<p>10 (1) S'il semble au tribunal saisi d'une motion d'une partie ou d'un membre du groupe que les conditions relatives au recours collectif qui sont mentionnées aux paragraphes 5 (1) et (2) n'ont pas été respectées, le tribunal peut modifier ou annuler l'ordonnance certifiant le recours collectif, ou rendre toute autre ordonnance qu'il estime appropriée.</p>	Inobservation des conditions
Proceeding may continue in altered form	<p>(2) Where the court makes a decertification order under subsection (1), the court may permit the proceeding to continue as one or more proceedings between different parties.</p>	<p>(2) S'il rend une ordonnance d'annulation de l'ordonnance certifiant le recours collectif en vertu du paragraphe (1), le tribunal peut autoriser la continuation de l'instance sous forme d'une ou de plusieurs instances entre différentes parties.</p>	Continuation de l'instance sous une autre forme
Powers of court	<p>(3) For the purposes of subsections (1) and (2), the court has the powers set out in clauses 7 (a) to (c).</p>	<p>(3) Pour l'application des paragraphes (1) et (2), le tribunal est investi des pouvoirs énoncés aux alinéas 7 a) à c).</p>	Pouvoirs du tribunal
Stages of class proceedings	<p>11.—(1) Subject to section 12, in a class proceeding,</p> <p>(a) common issues for a class shall be determined together;</p> <p>(b) common issues for a subclass shall be determined together; and</p> <p>(c) individual issues that require the participation of individual class members shall be determined individually in accordance with sections 24 and 25.</p>	<p>11 (1) Sous réserve de l'article 12, dans un recours collectif :</p> <p>a) les questions communes du groupe sont décidées ensemble;</p> <p>b) les questions communes du sous-groupe sont décidées ensemble;</p> <p>c) les questions individuelles nécessitant la participation, à titre individuel, de membres du groupe sont décidées individuellement, conformément aux articles 24 et 25.</p>	Organisation du recours collectif

Separate judgments

(2) The court may give judgment in respect of the common issues and separate judgments in respect of any other issue.

Court may determine conduct of proceeding

12. The court, on the motion of a party or class member, may make any order it considers appropriate respecting the conduct of a class proceeding to ensure its fair and expeditious determination and, for the purpose, may impose such terms on the parties as it considers appropriate.

Court may stay any other proceeding

13. The court, on its own initiative or on the motion of a party or class member, may stay any proceeding related to the class proceeding before it, on such terms as it considers appropriate.

Participation of class members

14.—(1) In order to ensure the fair and adequate representation of the interests of the class or any subclass or for any other appropriate reason, the court may, at any time in a class proceeding, permit one or more class members to participate in the proceeding.

Idem

(2) Participation under subsection (1) shall be in whatever manner and on whatever terms, including terms as to costs, the court considers appropriate.

Discovery of parties

15.—(1) Parties to a class proceeding have the same rights of discovery under the rules of court against one another as they would have in any other proceeding.

Discovery of class members with leave

(2) After discovery of the representative party, a party may move for discovery under the rules of court against other class members.

Idem

(3) In deciding whether to grant leave to discover other class members, the court shall consider,

- (a) the stage of the class proceeding and the issues to be determined at that stage;
- (b) the presence of subclasses;
- (c) whether the discovery is necessary in view of the claims or defences of the party seeking leave;
- (d) the approximate monetary value of individual claims, if any;
- (e) whether discovery would result in oppression or in undue annoyance, burden or expense for the class members sought to be discovered; and

(2) Le tribunal peut rendre un jugement sur les questions communes et des jugements distincts sur les autres questions en litige.

Jugements distincts

12 Le tribunal saisi d'une motion d'une partie ou d'un membre du groupe peut, afin de parvenir à un règlement juste et expéditif du recours collectif, rendre une ordonnance qu'il estime appropriée concernant le déroulement de celui-ci et imposer aux parties des conditions qu'il estime appropriées.

Ordonnance relative au déroulement de l'instance

13 Le tribunal peut, de sa propre initiative ou sur motion d'une partie ou d'un membre du groupe, surseoir à une instance liée au recours collectif en cours à des conditions qu'il estime appropriées.

Sursis des autres instances

14 (1) Afin de s'assurer que les intérêts du groupe ou d'un sous-groupe sont représentés de façon juste et appropriée ou pour toute autre raison valable, le tribunal peut, en tout temps au cours de l'instance, permettre à un ou plusieurs membres du groupe de participer à l'instance.

Participation des membres du groupe

(2) La participation prévue au paragraphe (1) est conforme à la façon et aux conditions, notamment en matière de dépens, que le tribunal estime appropriées.

Idem

15 (1) Les parties à un recours collectif ont les mêmes droits à l'enquête préalable qui sont prévus par les règles de pratique que si elles étaient parties à une autre instance.

Enquête préalable

(2) Après avoir interrogé au préalable le représentant, une partie peut demander, par voie de motion, de procéder à l'interrogatoire préalable d'autres membres du groupe aux termes des règles de pratique.

Interrogatoire préalable avec autorisation

(3) Afin de décider s'il accordera ou non l'autorisation d'interroger au préalable d'autres membres du groupe, le tribunal tient compte des points suivants :

Idem

- a) l'étape du recours collectif et les questions en litige à décider à cette étape;
- b) l'existence de sous-groupes;
- c) la nécessité de l'interrogatoire préalable, compte tenu des demandes ou des défenses de la partie qui demande l'autorisation;
- d) la valeur pécuniaire approximative des demandes individuelles, le cas échéant;
- e) la question de savoir si l'interrogatoire préalable pourrait entraîner, pour les membres du groupe qu'une partie cherche à interroger, des conséquences telles que l'oppression ou des désagréments, un fardeau ou des dépenses injustifiés;

	(f) any other matter the court considers relevant.	f) toute autre question que le tribunal estime pertinente.	
Idem	(4) A class member is subject to the same sanctions under the rules of court as a party for failure to submit to discovery.	(4) Les membres du groupe sont passibles des sanctions prévues par les règles de pratique pour les parties qui ne se soumettent pas à l'interrogatoire préalable.	Idem
Examination of class members before a motion or application	16.— (1) A party shall not require a class member other than a representative party to be examined as a witness before the hearing of a motion or application, except with leave of the court.	16 (1) Les parties ne peuvent pas exiger qu'un membre du groupe, à l'exception du représentant, soit interrogé comme témoin avant l'audition d'une motion ou d'une requête, sauf avec l'autorisation du tribunal.	Interrogatoire précédant l'audition de la motion ou de la requête
Idem	(2) Subsection 15 (3) applies with necessary modifications to a decision whether to grant leave under subsection (1).	(2) Le paragraphe 15 (3) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (1).	Idem
Notice of certification	17.— (1) Notice of certification of a class proceeding shall be given by the representative party to the class members in accordance with this section.	17 (1) Le représentant donne aux membres du groupe un avis les informant que le recours collectif est certifié, conformément au présent article.	Avis annonçant que le recours collectif est certifié
Court may dispense with notice	(2) The court may dispense with notice if, having regard to the factors set out in subsection (3), the court considers it appropriate to do so.	(2) Le tribunal peut dispenser le représentant de l'obligation de donner l'avis s'il estime que cela s'impose, compte tenu des points énumérés au paragraphe (3).	Dispense du tribunal
Order respecting notice	(3) The court shall make an order setting out when and by what means notice shall be given under this section and in so doing shall have regard to, (a) the cost of giving notice; (b) the nature of the relief sought; (c) the size of the individual claims of the class members; (d) the number of class members; (e) the places of residence of class members; and (f) any other relevant matter.	(3) Le tribunal indique, par ordonnance, quand et selon quels modes l'avis visé au présent article est donné et, ce faisant, il tient compte des points suivants : a) le coût de l'avis; b) la nature des mesures de redressement demandées; c) l'importance des demandes individuelles des membres du groupe; d) le nombre de membres du groupe; e) le lieu de résidence des membres du groupe; f) toute autre question pertinente.	Ordonnance relative à l'avis
Idem	(4) The court may order that notice be given, (a) personally or by mail; (b) by posting, advertising, publishing or leafleting; (c) by individual notice to a sample group within the class; or (d) by any means or combination of means that the court considers appropriate.	(4) Le tribunal peut ordonner que l'avis soit donné : a) à personne ou par la poste; b) par voie d'affichage ou de publication, par annonce publicitaire ou par prospectus; c) sous forme d'avis personnel donné à un échantillon représentatif du groupe; d) selon un ou plusieurs modes que le tribunal estime appropriés.	Idem
Idem	(5) The court may order that notice be given to different class members by different means.	(5) Le tribunal peut ordonner que l'avis soit donné à différents membres du groupe selon différents modes.	Idem
Contents of notice	(6) Notice under this section shall, unless the court orders otherwise,	(6) Sauf ordonnance contraire du tribunal, l'avis visé au présent article doit :	Contenu de l'avis

- (a) describe the proceeding, including the names and addresses of the representative parties and the relief sought;
- (b) state the manner by which and time within which class members may opt out of the proceeding;
- (c) describe the possible financial consequences of the proceeding to class members;
- (d) summarize any agreements between representative parties and their solicitors respecting fees and disbursements;
- (e) describe any counterclaim being asserted by or against the class, including the relief sought in the counterclaim;
- (f) state that the judgment, whether favourable or not, will bind all class members who do not opt out of the proceeding;
- (g) describe the right of any class member to participate in the proceeding;
- (h) give an address to which class members may direct inquiries about the proceeding; and
- (i) give any other information the court considers appropriate.

Solicitations
of contribu-
tions

(7) With leave of the court, notice under this section may include a solicitation of contributions from class members to assist in paying solicitor's fees and disbursements.

Notice where
individual
participation
is required

18.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, the representative party shall give notice to those members in accordance with this section.

Idem

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

Contents of
notice

- (3) Notice under this section shall,
 - (a) state that common issues have been determined in favour of the class;
 - (b) state that class members may be entitled to individual relief;
 - (c) describe the steps to be taken to establish an individual claim;
 - (d) state that failure on the part of a class member to take those steps will result in the member not being entitled to

- a) décrire l'instance, notamment indiquer les nom et adresse des représentants et les mesures de redressement demandées;
- b) indiquer la façon dont les membres du groupe peuvent se retirer de l'instance et la date limite pour ce faire;
- c) décrire les conséquences financières possibles de l'instance pour les membres du groupe;
- d) décrire brièvement les ententes relatives aux honoraires et aux débours qui ont été conclues par les représentants et leurs procureurs;
- e) décrire les demandes reconventionnelles présentées par le groupe ou contre le groupe, y compris les mesures de redressement qui y sont demandées;
- f) préciser que le jugement, qu'il soit favorable ou défavorable, liera tous les membres du groupe qui ne se retirent pas de l'instance;
- g) préciser le droit qu'a chaque membre du groupe de participer à l'instance;
- h) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance;
- i) donner tous les autres renseignements que le tribunal estime appropriés.

(7) Avec l'autorisation du tribunal, l'avis visé au présent article peut comprendre une demande de contribution adressée aux membres du groupe en vue du paiement des honoraires et des débours du procureur.

Demande de
contribution

18 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, le représentant en donne avis aux membres concernés conformément au présent article.

Avis relatif à
la participa-
tion de mem-
bres à titre
individuel

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

Idem

(3) L'avis visé au présent article doit :

Contenu de
l'avis

- a) préciser que les questions communes ont été décidées en faveur du groupe;
- b) indiquer que les membres du groupe peuvent avoir droit à des mesures de redressement individuelles;
- c) décrire les mesures à prendre pour faire valoir des demandes individuelles;
- d) indiquer que faute de prendre ces mesures, les membres du groupe perdent le droit de présenter des deman-

assert an individual claim except with leave of the court;

(e) give an address to which class members may direct inquiries about the proceeding; and

(f) give any other information that the court considers appropriate.

Notice to protect interests of affected persons

19.—(1) At any time in a class proceeding, the court may order any party to give such notice as it considers necessary to protect the interests of any class member or party or to ensure the fair conduct of the proceeding.

Idem

(2) Subsections 17 (3) to (5) apply with necessary modifications to notice given under this section.

Approval of notice by the court

20. A notice under section 17, 18 or 19 shall be approved by the court before it is given.

Delivery of notice

21. The court may order a party to deliver, by whatever means are available to the party, the notice required to be given by another party under section 17, 18 or 19, where that is more practical.

Costs of notice

22.—(1) The court may make any order it considers appropriate as to the costs of any notice under section 17, 18 or 19, including an order apportioning costs among parties.

Idem

(2) In making an order under subsection (1), the court may have regard to the different interests of a subclass.

Statistical evidence

23.—(1) For the purposes of determining issues relating to the amount or distribution of a monetary award under this Act, the court may admit as evidence statistical information that would not otherwise be admissible as evidence, including information derived from sampling, if the information was compiled in accordance with principles that are generally accepted by experts in the field of statistics.

Idem

(2) A record of statistical information purporting to be prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada may be admitted as evidence without proof of its authenticity.

Notice

(3) Statistical information shall not be admitted as evidence under this section unless the party seeking to introduce the information has,

(a) given reasonable notice of it to the party against whom it is to be used, together with a copy of the information;

des individuelles, sauf avec l'autorisation du tribunal;

e) donner une adresse à laquelle les membres du groupe peuvent envoyer toute question relative à l'instance;

f) donner tous les autres renseignements que le tribunal estime appropriés.

19 (1) Le tribunal peut, en tout temps au cours de l'instance, ordonner à une partie de donner l'avis qu'il estime nécessaire à la protection des intérêts d'un membre du groupe ou d'une partie et à la conduite équitable de l'instance.

Avis relatif à la protection des personnes concernées

(2) Les paragraphes 17 (3) à (5) s'appliquent, avec les adaptations nécessaires, à l'avis donné aux termes du présent article.

Idem

20 L'avis visé à l'article 17, 18 ou 19 doit être approuvé par le tribunal avant d'être donné.

Approbation de l'avis par le tribunal

21 Le tribunal peut, pour des raisons de commodité, ordonner à une partie de remettre, par tout moyen dont elle dispose, l'avis qui doit être donné par une autre partie aux termes de l'article 17, 18 ou 19.

Remise de l'avis

22 (1) Le tribunal peut rendre l'ordonnance relative au coût des avis visés à l'article 17, 18 ou 19 qu'il estime appropriée, y compris une ordonnance répartissant le coût entre les parties.

Coût de l'avis

(2) Le tribunal qui rend une ordonnance en vertu du paragraphe (1) peut tenir compte des intérêts différents d'un sous-groupe.

Idem

23 (1) Afin de décider les questions en litige qui ont trait à la valeur ou à la distribution d'un montant adjugé aux termes de la présente loi, le tribunal peut admettre en preuve des données statistiques qui ne seraient pas admissibles en preuve autrement, obtenues notamment par échantillonnage, si les statistiques ont été établies conformément aux principes généralement reconnus par les statisticiens.

Données statistiques

(2) Tout document qui montre des données statistiques qui se présentent comme étant élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada peut être admis en preuve sans attestation de son authenticité.

Idem

(3) Les données statistiques ne sont admises en preuve en vertu du présent article que si la partie qui cherche à les produire :

Avis

a) en a donné un avis raisonnable à la partie contre laquelle elle entend les utiliser, ainsi qu'une copie des données;

	<p>(b) complied with subsections (4) and (5); and</p> <p>(c) complied with any requirement to produce documents under subsection (7).</p>	<p>b) s'est conformée aux paragraphes (4) et (5);</p> <p>c) s'est conformée à l'obligation de produire des documents prévue au paragraphe (7).</p>
Contents of notice	<p>(4) Notice under this section shall specify the source of any statistical information sought to be introduced that,</p> <p>(a) was prepared or published under the authority of the Parliament of Canada or the legislature of any province or territory of Canada;</p> <p>(b) was derived from market quotations, tabulations, lists, directories or other compilations generally used and relied on by members of the public; or</p> <p>(c) was derived from reference material generally used and relied on by members of an occupational group.</p>	<p>(4) L'avis visé au présent article précise la source des données statistiques qu'une partie cherche à produire et qui :</p> <p>a) ont été élaborées ou publiées en vertu de l'autorité du Parlement du Canada ou de la législature d'une province ou d'un territoire du Canada;</p> <p>b) proviennent de cours du marché, de tableaux, de listes, de répertoires ou d'autres recueils que consulte couramment le grand public et qu'il considère comme fiables;</p> <p>c) proviennent de documents de référence que consultent couramment les membres d'un groupe professionnel et qu'ils considèrent comme fiables.</p>
Idem	<p>(5) Except with respect to information referred to in subsection (4), notice under this section shall,</p> <p>(a) specify the name and qualifications of each person who supervised the preparation of statistical information sought to be introduced; and</p> <p>(b) describe any documents prepared or used in the course of preparing the statistical information sought to be introduced.</p>	<p>(5) Sauf pour les données mentionnées au paragraphe (4), l'avis visé au présent article contient les renseignements suivants :</p> <p>a) les nom et qualités de chaque personne qui a surveillé l'élaboration des données statistiques qu'une partie cherche à produire;</p> <p>b) une description des documents rédigés ou ayant servi à l'élaboration des données statistiques qu'une partie cherche à produire.</p>
Cross-examination	<p>(6) A party against whom statistical information is sought to be introduced under this section may require, for the purposes of cross-examination, the attendance of any person who supervised the preparation of the information.</p>	<p>(6) La partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander, aux fins du contre-interrogatoire, que soient présentes les personnes ayant surveillé l'élaboration des données.</p>
Production of documents	<p>(7) Except with respect to information referred to in subsection (4), a party against whom statistical information is sought to be introduced under this section may require the party seeking to introduce it to produce for inspection any document that was prepared or used in the course of preparing the information, unless the document discloses the identity of persons responding to a survey who have not consented in writing to the disclosure.</p>	<p>(7) Sauf pour les données mentionnées au paragraphe (4), la partie contre laquelle une autre partie cherche à produire les données statistiques aux termes du présent article peut demander à la partie qui cherche à les produire, afin de les examiner, les documents qui ont été rédigés ou qui ont servi à l'élaboration des données, à moins que les documents ne divulguent l'identité des personnes ayant répondu dans le cadre d'une enquête qui n'ont pas consenti par écrit à ce que leur identité soit divulguée.</p>
Aggregate assessment of monetary relief	<p>24.—(1) The court may determine the aggregate or a part of a defendant's liability to class members and give judgment accordingly where,</p> <p>(a) monetary relief is claimed on behalf of some or all class members;</p>	<p>24 (1) Le tribunal peut établir la totalité ou une partie de la responsabilité d'un défendeur envers les membres du groupe et rendre un jugement en conséquence, si :</p> <p>a) les mesures de redressement pécuniaire sont demandées au nom de certains membres ou de tous les membres du groupe;</p>

Contenu de l'avis

Idem

Contre-interrogatoire

Production de documents

Évaluation totale des mesures de redressement pécuniaire

- (b) no questions of fact or law other than those relating to the assessment of monetary relief remain to be determined in order to establish the amount of the defendant's monetary liability; and
- (c) the aggregate or a part of the defendant's liability to some or all class members can reasonably be determined without proof by individual class members.

Average or proportional application

(2) The court may order that all or a part of an award under subsection (1) be applied so that some or all individual class members share in the award on an average or proportional basis.

Idem

(3) In deciding whether to make an order under subsection (2), the court shall consider whether it would be impractical or inefficient to identify the class members entitled to share in the award or to determine the exact shares that should be allocated to individual class members.

Court to determine whether individual claims need to be made

(4) When the court orders that all or a part of an award under subsection (1) be divided among individual class members, the court shall determine whether individual claims need to be made to give effect to the order.

Procedures for determining claims

(5) Where the court determines under subsection (4) that individual claims need to be made, the court shall specify procedures for determining the claims.

Idem

(6) In specifying procedures under subsection (5), the court shall minimize the burden on class members and, for the purpose, the court may authorize,

- (a) the use of standardized proof of claim forms;
- (b) the receipt of affidavit or other documentary evidence; and
- (c) the auditing of claims on a sampling or other basis.

Time limits for making claims

(7) When specifying procedures under subsection (5), the court shall set a reasonable time within which individual class members may make claims under this section.

Idem

(8) A class member who fails to make a claim within the time set under subsection (7) may not later make a claim under this section except with leave of the court.

- b) seules les questions de fait ou de droit se rapportant à l'évaluation des mesures de redressement pécuniaire restent à être décidées afin de fixer le montant correspondant à la responsabilité financière du défendeur;

- c) la totalité ou une partie de la responsabilité du défendeur envers certains membres ou tous les membres du groupe peut raisonnablement être établie sans que des membres du groupe aient à en faire la preuve individuellement.

(2) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit affectée de façon que certains membres ou tous les membres du groupe se partagent le montant adjugé selon la règle de la moyenne ou selon celle de la proportionnalité.

Règle de la moyenne ou règle de la proportionnalité

(3) Afin de décider s'il doit ou non rendre une ordonnance en vertu du paragraphe (2), le tribunal examine s'il serait irréaliste ou inutile d'identifier les membres du groupe qui ont droit à une part du montant adjugé ou d'établir le montant exact des parts qui doivent être affectées aux membres du groupe pris individuellement.

Idem

(4) Le tribunal qui ordonne que la totalité ou une partie du montant adjugé aux termes du paragraphe (1) soit répartie entre des membres du groupe pris individuellement décide en même temps s'il est nécessaire de présenter des demandes individuelles pour que l'ordonnance porte ses effets.

Présentation des demandes individuelles

(5) S'il décide, aux termes du paragraphe (4), qu'il est nécessaire de présenter des demandes individuelles, le tribunal précise la procédure à suivre pour décider les demandes.

Procédure pour décider les demandes

(6) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (5) rend la tâche des membres du groupe aussi facile que possible et peut, à cette fin, autoriser :

Idem

- a) l'emploi de formules normalisées de preuve des demandes;
- b) la réception d'affidavits ou d'autres éléments de preuve documentaire;
- c) la vérification des demandes, notamment par échantillonnage.

(7) Le tribunal qui précise la procédure à suivre aux termes du paragraphe (5) fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.

Délai de présentation des demandes

(8) Les membres du groupe qui ne présentent pas de demande dans le délai fixé aux termes du paragraphe (7) ne peuvent en

Idem

Extension of
time

(9) The court may give leave under subsection (8) if it is satisfied that,

- (a) there are apparent grounds for relief;
- (b) the delay was not caused by any fault of the person seeking the relief; and
- (c) the defendant would not suffer substantial prejudice if leave were given.

Court may
amend subs.
(1) judgment

(10) The court may amend a judgment given under subsection (1) to give effect to a claim made with leave under subsection (8) if the court considers it appropriate to do so.

Individual
issues

25.—(1) When the court determines common issues in favour of a class and considers that the participation of individual class members is required to determine individual issues, other than those that may be determined under section 24, the court may,

- (a) determine the issues in further hearings presided over by the judge who determined the common issues or by another judge of the court;
- (b) appoint one or more persons to conduct a reference under the rules of court and report back to the court; and
- (c) with the consent of the parties, direct that the issues be determined in any other manner.

Directions as
to procedure

(2) The court shall give any necessary directions relating to the procedures to be followed in conducting hearings, inquiries and determinations under subsection (1), including directions for the purpose of achieving procedural conformity.

Idem

(3) In giving directions under subsection (2), the court shall choose the least expensive and most expeditious method of determining the issues that is consistent with justice to class members and the parties and, in so doing, the court may,

- (a) dispense with any procedural step that it considers unnecessary; and
- (b) authorize any special procedural steps, including steps relating to discovery, and any special rules, including rules relating to admission of evidence and means of proof, that it considers appropriate.

présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.

(9) Le tribunal peut accorder l'autorisation visée au paragraphe (8) s'il est convaincu :

- a) qu'il existe des motifs apparents d'accorder l'autorisation;
- b) que le retard n'est pas dû à une faute de la personne qui demande l'autorisation;
- c) que l'autorisation ne causerait pas de préjudice grave au défendeur.

(10) Le tribunal peut, s'il estime que cela est approprié, modifier un jugement rendu en vertu du paragraphe (1) pour faire droit à une demande présentée avec une autorisation aux termes du paragraphe (8).

25 (1) Lorsque le tribunal décide les questions communes en faveur du groupe et estime que la participation, à titre individuel, de membres du groupe est nécessaire pour décider les questions individuelles, à l'exception de celles qui peuvent être décidées aux termes de l'article 24, le tribunal peut :

- a) décider les questions en litige dans d'autres audiences présidées par le juge qui a décidé les questions communes ou par un autre juge du tribunal;
- b) charger une ou plusieurs personnes de conduire un renvoi aux termes des règles de pratique et de présenter un rapport au tribunal;
- c) avec le consentement des parties, ordonner que les questions en litige soient décidées d'une autre façon.

(2) Le tribunal donne les directives nécessaires en matière de procédure à suivre pour le déroulement des audiences et des enquêtes et la prise des décisions visées au paragraphe (1), y compris des directives visant à assurer le respect de la procédure.

(3) Le tribunal qui donne des directives aux termes du paragraphe (2) choisit le mode de décision des questions en litige le moins onéreux et le plus expéditif qui rend justice aux membres du groupe et aux parties et, à cette fin, il peut :

- a) passer outre à une mesure procédurale qu'il estime inutile;
- b) autoriser des mesures procédurales particulières, notamment en matière d'interrogatoire préalable, et des règles particulières, notamment en matière d'admission de la preuve et des moyens de preuve, qu'il estime appropriées.

Prorogation

Le tribunal
peut modifier
le jugement

Questions
individuelles

Directives
relatives à la
procédure

Idem

Time limits for making claims	(4) The court shall set a reasonable time within which individual class members may make claims under this section.	(4) Le tribunal fixe un délai raisonnable pour la présentation des demandes individuelles des membres du groupe aux termes du présent article.	Délai de présentation des demandes
Idem	(5) A class member who fails to make a claim within the time set under subsection (4) may not later make a claim under this section except with leave of the court.	(5) Les membres du groupe qui ne présentent pas de demande pendant le délai fixé aux termes du paragraphe (4) ne peuvent en présenter par la suite aux termes du présent article qu'avec l'autorisation du tribunal.	Idem
Extension of time	(6) Subsection 24 (9) applies with necessary modifications to a decision whether to give leave under subsection (5).	(6) Le paragraphe 24 (9) s'applique, avec les adaptations nécessaires, à la décision d'accorder ou non l'autorisation visée au paragraphe (5).	Prorogation du délai
Determination under cl. (1) (c) deemed court order	(7) A determination under clause (1) (c) is deemed to be an order of the court.	(7) La décision visée à l'alinéa (1) c) est réputée une ordonnance judiciaire.	Décision réputée une ordonnance judiciaire
Judgment distribution	26. —(1) The court may direct any means of distribution of amounts awarded under section 24 or 25 that it considers appropriate.	26 (1) Le tribunal peut ordonner que les montants adjugés aux termes de l'article 24 ou 25 soient distribués de la façon qu'il estime appropriée.	Distribution
Idem	(2) In giving directions under subsection (1), the court may order that, (a) the defendant distribute directly to class members the amount of monetary relief to which each class member is entitled by any means authorized by the court, including abatement and credit; (b) the defendant pay into court or some other appropriate depository the total amount of the defendant's liability to the class until further order of the court; and (c) any person other than the defendant distribute directly to class members the amount of monetary relief to which each member is entitled by any means authorized by the court.	(2) Le tribunal qui donne les directives en vertu du paragraphe (1) peut ordonner : a) au défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe de la façon autorisée par le tribunal, y compris sous forme de réduction ou de crédit; b) au défendeur de consigner au tribunal ou auprès d'un autre dépositaire approprié le total du montant correspondant à la responsabilité du défendeur envers le groupe, jusqu'à nouvelle ordonnance du tribunal; c) à toute personne qui n'est pas le défendeur de distribuer directement aux membres du groupe le montant des mesures de redressement pécuniaire auquel a droit chaque membre de la façon autorisée par le tribunal.	Idem
Idem	(3) In deciding whether to make an order under clause (2) (a), the court shall consider whether distribution by the defendant is the most practical way of distributing the award for any reason, including the fact that the amount of monetary relief to which each class member is entitled can be determined from the records of the defendant.	(3) Le tribunal qui décide s'il y a lieu de rendre une ordonnance aux termes de l'alinéa (2) a) examine si la façon la plus pratique de distribuer le montant adjugé est de confier cette tâche au défendeur, étant donné notamment qu'il est possible de déterminer d'après les dossiers du défendeur le montant des mesures de redressement pécuniaire auquel a droit chaque membre du groupe.	Idem
Idem	(4) The court may order that all or a part of an award under section 24 that has not been distributed within a time set by the court be applied in any manner that may reasonably be expected to benefit class members, even though the order does not provide for monetary relief to individual class members, if the court is satisfied that a reasonable number of class members who would not	(4) Le tribunal peut ordonner que la totalité ou une partie du montant adjugé aux termes de l'article 24 qui n'a pas été répartie dans le délai qu'il a fixé soit affectée d'une façon dont il est raisonnable de s'attendre qu'elle profite aux membres du groupe, même si l'ordonnance ne prévoit pas de mesures de redressement pécuniaire pour ceux-ci pris individuellement, si le tribunal	Idem

otherwise receive monetary relief would benefit from the order.

Idem

(5) The court may make an order under subsection (4) whether or not all class members can be identified or all of their shares can be exactly determined.

Idem

(6) The court may make an order under subsection (4) even if the order would benefit,

(a) persons who are not class members; or

(b) persons who may otherwise receive monetary relief as a result of the class proceeding.

Supervisory
role of the
court

(7) The court shall supervise the execution of judgments and the distribution of awards under section 24 or 25 and may stay the whole or any part of an execution or distribution for a reasonable period on such terms as it considers appropriate.

Payment of
awards

(8) The court may order that an award made under section 24 or 25 be paid,

(a) in a lump sum, forthwith or within a time set by the court; or

(b) in instalments, on such terms as the court considers appropriate.

Costs of
distribution

(9) The court may order that the costs of distribution of an award under section 24 or 25, including the costs of notice associated with the distribution and the fees payable to a person administering the distribution, be paid out of the proceeds of the judgment or may make such other order as it considers appropriate.

Return of
unclaimed
amounts

(10) Any part of an award for division among individual class members that remains unclaimed or otherwise undistributed after a time set by the court shall be returned to the party against whom the award was made, without further order of the court.

Contents of
judgment on
common
issues

27.—(1) A judgment on common issues of a class or subclass shall,

(a) set out the common issues;

(b) name or describe the class or subclass members;

(c) state the nature of the claims or defences asserted on behalf of the class or subclass; and

est convaincu qu'un nombre raisonnable de membres du groupe qui ne recevraient pas autrement de mesures de redressement pécuniaire bénéficierait de cette ordonnance.

Idem

(5) Le tribunal peut rendre une ordonnance en vertu du paragraphe (4), que tous les membres du groupe soient identifiables ou non, ou que la part de chacun d'eux puisse être ou non établie exactement.

Idem

(6) Le tribunal peut rendre une ordonnance en vertu du paragraphe (4), même si cette ordonnance profiterait :

a) à des personnes qui ne sont pas membres du groupe;

b) à des personnes qui peuvent autrement bénéficier de mesures de redressement pécuniaire en raison du recours collectif.

Surveillance
par le tribu-
nal

(7) Le tribunal surveille l'exécution des jugements et la distribution des montants adjugés aux termes de l'article 24 ou 25 et peut surseoir en totalité ou en partie à une exécution ou à une distribution pendant une période raisonnable aux conditions qu'il estime appropriées.

Paiement des
montants
adjugés

(8) Le tribunal peut ordonner qu'un montant adjugé aux termes de l'article 24 ou 25 soit payé, selon le cas :

a) sous forme d'une somme globale, sans délai ou dans le délai imparti par le tribunal;

b) en plusieurs versements, aux conditions que le tribunal estime appropriées.

Frais de dis-
tribution

(9) Le tribunal peut ordonner que les frais de distribution du montant adjugé aux termes de l'article 24 ou 25, y compris les frais d'avis liés à la distribution et la rémunération de la personne chargée de la distribution, soient prélevés sur le produit du jugement, ou peut rendre l'ordonnance qu'il estime appropriée.

Remise des
sommes non
réclamées

(10) Toute partie d'un montant adjugé, destiné à être réparti entre des membres du groupe pris individuellement, qui n'est pas réclamée ou autrement distribuée à l'expiration d'un délai fixé par le tribunal est rendue à la partie contre laquelle le jugement a été rendu, sans autre ordonnance du tribunal.

Contenu du
jugement sur
les questions
communes

27 (1) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe :

a) énonce les questions communes;

b) donne le nom des membres du groupe ou du sous-groupe, ou les décrit;

c) expose la nature des demandes ou des défenses présentées au nom du groupe ou du sous-groupe;

(d) specify the relief granted.

Effect of
judgment on
common
issues

(2) A judgment on common issues of a class or subclass does not bind,

- (a) a person who has opted out of the class proceeding; or
- (b) a party to the class proceeding in any subsequent proceeding between the party and a person mentioned in clause (a).

Idem

(3) A judgment on common issues of a class or subclass binds every class member who has not opted out of the class proceeding, but only to the extent that the judgment determines common issues that,

- (a) are set out in the certification order;
- (b) relate to claims or defences described in the certification order; and
- (c) relate to relief sought by or from the class or subclass as stated in the certification order.

Limitations

28.—(1) Subject to subsection (2), any limitation period applicable to a cause of action asserted in a class proceeding is suspended in favour of a class member on the commencement of the class proceeding and resumes running against the class member when,

- (a) the member opts out of the class proceeding;
- (b) an amendment that has the effect of excluding the member from the class is made to the certification order;
- (c) a decertification order is made under section 10;
- (d) the class proceeding is dismissed without an adjudication on the merits;
- (e) the class proceeding is abandoned or discontinued with the approval of the court; or
- (f) the class proceeding is settled with the approval of the court, unless the settlement provides otherwise.

Idem

(2) Where there is a right of appeal in respect of an event described in clauses (1) (a) to (f), the limitation period resumes running as soon as the time for appeal has expired without an appeal being commenced

d) précise les mesures de redressement accordées.

(2) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe ne lie pas :

- a) les personnes qui se sont retirées du recours collectif;
- b) les parties au recours collectif qui participent à une instance subséquente entre les personnes mentionnées à l'alinéa a) et elles.

Effet du jugement sur les questions communes

Idem

(3) Le jugement rendu sur les questions communes d'un groupe ou d'un sous-groupe lie chaque membre du groupe qui ne s'est pas retiré du recours collectif, mais seulement dans la mesure où le jugement décide les questions communes qui :

- a) figurent dans l'ordonnance certifiant le recours collectif;
- b) se rapportent aux demandes ou aux défenses décrites dans l'ordonnance certifiant le recours collectif;
- c) se rapportent aux mesures de redressement demandées par le groupe ou le sous-groupe ou contre le groupe ou le sous-groupe, qui figurent dans l'ordonnance certifiant le recours collectif.

Prescription

28 (1) Sous réserve du paragraphe (2), tout délai de prescription applicable à une cause d'action invoquée dans un recours collectif est suspendue en faveur d'un membre du groupe à l'introduction du recours collectif et reprend au détriment du membre au moment où, selon le cas :

- a) ce membre se retire du recours collectif;
- b) est apportée une modification de l'ordonnance certifiant le recours collectif qui a pour effet d'exclure du groupe le membre;
- c) une ordonnance annulant l'ordonnance certifiant le recours collectif est rendue en vertu de l'article 10;
- d) le recours collectif est rejeté sans décision sur le fond;
- e) il y a désistement du recours collectif avec l'approbation du tribunal;
- f) le recours collectif fait l'objet d'une transaction avec l'approbation du tribunal, à moins que la transaction ne prévoie autre chose.

Idem

(2) Lorsqu'il existe un droit d'appel à l'égard d'un des événements décrits aux alinéas (1) a) à f), le délai de prescription reprend dès l'expiration du délai d'appel, si

or as soon as any appeal has been finally disposed of.

Discontinu-
ance and
abandonment

29.—(1) A proceeding commenced under this Act and a proceeding certified as a class proceeding under this Act may be discontinued or abandoned only with the approval of the court, on such terms as the court considers appropriate.

Settlement
without
court
approval not
binding
Effect of
settlement

(2) A settlement of a class proceeding is not binding unless approved by the court.

(3) A settlement of a class proceeding that is approved by the court binds all class members.

Notice:
dismissal,
discontinu-
ance, aban-
donment or
settlement

(4) In dismissing a proceeding for delay or in approving a discontinuance, abandonment or settlement, the court shall consider whether notice should be given under section 19 and whether any notice should include,

- (a) an account of the conduct of the proceeding;
- (b) a statement of the result of the proceeding; and
- (c) a description of any plan for distributing settlement funds.

Appeals:
refusals to
certify and
decertifica-
tion orders

30.—(1) A party may appeal to the Divisional Court from an order refusing to certify a proceeding as a class proceeding and from an order decertifying a proceeding.

Appeals:
certification
orders

(2) A party may appeal to the Divisional Court from an order certifying a proceeding as a class proceeding, with leave of the Ontario Court (General Division) as provided in the rules of court.

Appeals:
judgments
on common
issues and
aggregate
awards

(3) A party may appeal to the Court of Appeal from a judgment on common issues and from an order under section 24, other than an order that determines individual claims made by class members.

Appeals by
class
members on
behalf of the
class

(4) If a representative party does not appeal or seek leave to appeal as permitted by subsection (1) or (2), or if a representative party abandons an appeal under subsection (1) or (2), any class member may make a motion to the court for leave to act as the representative party for the purposes of the relevant subsection.

Idem

(5) If a representative party does not appeal as permitted by subsection (3), or if a

aucun appel n'a été introduit, ou dès le règlement d'un appel.

29 (1) Il ne peut y avoir désistement des instances introduites dans le cadre de la présente loi et des instances certifiées comme recours collectifs aux termes de la présente loi qu'avec l'approbation du tribunal et qu'aux conditions que celui-ci estime appropriées.

(2) La transaction obtenue dans le cadre d'un recours collectif ne lie les parties que si elle est homologuée par le tribunal.

(3) La transaction obtenue dans le cadre d'un recours collectif qui est homologuée par le tribunal lie tous les membres du groupe.

(4) Le tribunal qui rejette une instance pour cause de retard, qui approuve le désistement ou qui homologue la transaction examine s'il y a lieu de donner un avis aux termes de l'article 19 et si l'avis devrait comprendre :

- a) un compte rendu du déroulement de l'instance;
- b) une déclaration relative à l'issue de l'instance;
- c) une description du plan de distribution des sommes faisant l'objet de la transaction.

30 (1) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance refusant de certifier qu'une instance est un recours collectif ou d'une ordonnance annulant l'ordonnance certifiant un recours collectif.

(2) Une partie peut interjeter appel devant la Cour divisionnaire d'une ordonnance certifiant qu'une instance est un recours collectif avec l'autorisation de la Cour de l'Ontario (Division générale) comme le prévoient les règles de pratique.

(3) Une partie peut interjeter appel devant la Cour d'appel d'un jugement rendu sur les questions communes et d'une ordonnance rendue aux termes de l'article 24, à l'exclusion d'une ordonnance qui décide les demandes individuelles présentées par les membres du groupe.

(4) Si le représentant n'interjette pas appel ou ne demande pas l'autorisation d'interjeter appel en vertu du paragraphe (1) ou (2) ou s'il se désiste de l'appel visé au paragraphe (1) ou (2), un membre du groupe peut demander au tribunal, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe pertinent.

(5) Si le représentant n'interjette pas appel en vertu du paragraphe (3) ou s'il se

Désistement

Obligation de
faire homolo-
guer la tran-
saction

Effet de la
transaction

Avis en cas
de rejet, de
désistement
ou de tran-
saction

Appel en cas
de refus de
certifier et
d'ordonnance
annulant
l'ordonnance
certifiant un
recours
collectif

Appel en cas
d'ordonnance
certifiant un
recours
collectif

Appel relatif
aux questions
communes

Appel par les
membres du
groupe au
nom du
groupe

Idem

representative party abandons an appeal under subsection (3), any class member may make a motion to the Court of Appeal for leave to act as the representative party for the purposes of subsection (3).

Appeals:
individual
awards

(6) A class member may appeal to the Divisional Court from an order under section 24 or 25 determining an individual claim made by the member and awarding more than \$3,000 to the member.

Idem

(7) A representative plaintiff may appeal to the Divisional Court from an order under section 24 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(8) A defendant may appeal to the Divisional Court from an order under section 25 determining an individual claim made by a class member and awarding more than \$3,000 to the member.

Idem

(9) With leave of the Ontario Court (General Division) as provided in the rules of court, a class member may appeal to the Divisional Court from an order under section 24 or 25,

- (a) determining an individual claim made by the member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by the member for monetary relief.

Idem

(10) With leave of the Ontario Court (General Division) as provided in the rules of court, a representative plaintiff may appeal to the Divisional Court from an order under section 24,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

Idem

(11) With leave of the Ontario Court (General Division) as provided in the rules of court, a defendant may appeal to the Divisional Court from an order under section 25,

- (a) determining an individual claim made by a class member and awarding \$3,000 or less to the member; or
- (b) dismissing an individual claim made by a class member for monetary relief.

désiste de l'appel visé au paragraphe (3), un membre du groupe peut demander à la Cour d'appel, par voie de motion, l'autorisation d'agir comme représentant pour l'application du paragraphe (3).

(6) Tout membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui décide sa demande individuelle et qui lui accorde plus de 3 000 \$.

Appel relatif
aux montants
individuels

(7) Le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$.

Idem

(8) Le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui décide la demande individuelle présentée par un membre du groupe et qui accorde à celui-ci plus de 3 000 \$.

Idem

(9) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, un membre du groupe peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 ou 25 qui, selon le cas :

Idem

- a) décide la demande individuelle présentée par le membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par le membre.

(10) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le représentant des demandeurs peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 24 qui, selon le cas :

Idem

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

(11) Avec l'autorisation de la Cour de l'Ontario (Division générale), comme le prévoient les règles de pratique, le défendeur peut interjeter appel devant la Cour divisionnaire d'une ordonnance rendue en vertu de l'article 25 qui, selon le cas :

Idem

- a) décide la demande individuelle présentée par un membre et lui accorde 3 000 \$ ou moins;
- b) rejette la demande individuelle de mesures de redressement pécuniaire présentée par un membre du groupe.

Costs

31.—(1) In exercising its discretion with respect to costs under subsection 141 (1) of the *Courts of Justice Act, 1984*, the court may consider whether the class proceeding was a test case, raised a novel point of law or involved a matter of public interest.

Liability of class members for costs

(2) Class members, other than the representative party, are not liable for costs except with respect to the determination of their own individual claims.

Small claims

(3) Where an individual claim under section 24 or 25 is within the monetary jurisdiction of the Small Claims Court where the class proceeding was commenced, costs related to the claim shall be assessed as if the claim had been determined by the Small Claims Court.

Agreements respecting fees and disbursements

32.—(1) An agreement respecting fees and disbursements between a solicitor and a representative party shall be in writing and shall,

- (a) state the terms under which fees and disbursements shall be paid;
- (b) give an estimate of the expected fee, whether contingent on success in the class proceeding or not; and
- (c) state the method by which payment is to be made, whether by lump sum, salary or otherwise.

Court to approve agreements

(2) An agreement respecting fees and disbursements between a solicitor and a representative party is not enforceable unless approved by the court, on the motion of the solicitor.

Priority of amounts owed under approved agreement

(3) Amounts owing under an enforceable agreement are a first charge on any settlement funds or monetary award.

Determination of fees where agreement not approved

(4) If an agreement is not approved by the court, the court may,

- (a) determine the amount owing to the solicitor in respect of fees and disbursements;
- (b) direct a reference under the rules of court to determine the amount owing; or
- (c) direct that the amount owing be determined in any other manner.

Agreements for payment only in the event of success

33.—(1) Despite the *Solicitors Act* and *An Act Respecting Champerty*, a solicitor and a representative party may enter into a written agreement providing for payment of fees and disbursements only in the event of success in a class proceeding.

31 (1) Le tribunal peut, dans l'exercice de son pouvoir discrétionnaire d'adjudication des dépens visé au paragraphe 141 (1) de la *Loi de 1984 sur les tribunaux judiciaires*, examiner si le recours collectif était une cause type, soulevait un nouveau point de droit ou posait une question d'intérêt public.

(2) Les membres du groupe, à l'exception du représentant, ne sont pas redevables des dépens, sauf à l'égard des demandes individuelles.

(3) Si les demandes individuelles visées à l'article 24 ou 25 ne dépassent pas la limite pécuniaire de la compétence d'attribution de la Cour des petites créances où le recours collectif a été introduit, les dépens qui se rapportent aux demandes sont liquidés comme si les demandes avaient été décidées par la Cour des petites créances.

32 (1) L'entente relative aux honoraires et aux débours entre le procureur et le représentant est conclue par écrit et :

- a) indique les modalités de paiement des honoraires et des débours;
- b) donne une estimation des honoraires prévus, qu'ils soient subordonnés à l'issue favorable du recours collectif ou non;
- c) indique le mode de paiement choisi, notamment sous forme de somme globale ou de salaire.

(2) L'entente conclue entre le procureur et le représentant en matière d'honoraires et de débours n'est opposable qu'avec l'approbation du tribunal saisi d'une motion à cet effet.

(3) Les sommes dues aux termes d'une entente opposable constituent une charge de premier rang sur les sommes qui font l'objet d'une transaction ou sur le montant adjugé.

(4) S'il n'approuve pas l'entente, le tribunal peut :

- a) fixer les sommes dues au procureur à titre d'honoraires et de débours;
- b) ordonner un renvoi aux termes des règles de pratique afin de fixer les sommes dues;
- c) ordonner que les sommes dues soient fixées d'une autre manière.

33 (1) Malgré la *Loi sur les procureurs* et la loi intitulée *An Act Respecting Champerty*, le procureur et le représentant peuvent conclure une entente écrite qui ne prévoit le paiement d'honoraires et de

Dépens

Responsabilité des membres du groupe à l'égard des dépens

Petites créances

Entente relative aux honoraires et aux débours

Entente assujettie à l'approbation du tribunal

Priorité des sommes dues

Établissement des honoraires en l'absence d'approbation judiciaire

Entente en cas d'issue favorable

Interpretation: success in a proceeding	(2) For the purpose of subsection (1), success in a class proceeding includes,	débours qu'en cas d'issue favorable du recours collectif.	Interprétation
	(a) a judgment on common issues in favour of some or all class members; and	a) d'un jugement rendu sur les questions communes en faveur de certains membres ou de tous les membres du groupe;	
	(b) a settlement that benefits one or more class members.	b) d'une transaction qui profite à un ou plusieurs membres du groupe.	
Definitions	(3) For the purposes of subsections (4) to (7), "base fee" means the result of multiplying the total number of hours worked by an hourly rate; ("honoraires de base") "multiplier" means a multiple to be applied to a base fee. ("multiplicateur")	(3) Les définitions qui suivent s'appliquent aux paragraphes (4) à (7). «honoraires de base» Le produit du nombre total d'heures de travail multiplié par le taux horaire. («base fee») «multiplicateur» Le multiple appliqué aux honoraires de base. («multiplier»)	Définitions
Agreements to increase fees by a multiplier	(4) An agreement under subsection (1) may permit the solicitor to make a motion to the court to have his or her fees increased by a multiplier.	(4) L'entente visée au paragraphe (1) peut permettre au procureur de demander au tribunal, par voie de motion, l'augmentation de ses honoraires par application d'un multiplicateur.	Augmentation des honoraires par un multiplicateur
Motion to increase fee by a multiplier	(5) A motion under subsection (4) shall be heard by a judge who has, (a) given judgment on common issues in favour of some or all class members; or (b) approved a settlement that benefits any class member.	(5) La motion visée au paragraphe (4) est entendue par le juge qui : a) a rendu un jugement sur les questions communes en faveur de certains membres ou de tous les membres du groupe; b) a homologué une transaction qui profite aux membres du groupe.	Motion en vue d'augmenter les honoraires
Idem	(6) Where the judge referred to in subsection (5) is unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.	(6) Si le juge mentionné au paragraphe (5) n'est pas disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge du tribunal à l'audition de la motion.	Idem
Idem	(7) On the motion of a solicitor who has entered into an agreement under subsection (4), the court, (a) shall determine the amount of the solicitor's base fee; (b) may apply a multiplier to the base fee that results in fair and reasonable compensation to the solicitor for the risk incurred in undertaking and continuing the proceeding under an agreement for payment only in the event of success; and (c) shall determine the amount of disbursements to which the solicitor is entitled, including interest calculated on the disbursements incurred, as totalled at the end of each six-month period following the date of the agreement.	(7) Le tribunal saisi de la motion du procureur qui a conclu une entente aux termes du paragraphe (4) : a) décide du montant des honoraires de base du procureur; b) peut appliquer aux honoraires de base un multiplicateur qui permette d'arriver à une rémunération équitable et raisonnable pour le procureur, compte tenu des risques qu'il a pris en introduisant et en continuant une instance dans le cadre d'une entente ne garantissant le paiement de ses honoraires qu'en cas d'issue favorable; c) décide du montant des débours auquel a droit le procureur, y compris les intérêts calculés sur les débours effectués, selon le total fait à la fin de chaque semestre suivant la date de l'entente.	Idem

Idem	(8) In making a determination under clause (7) (a), the court shall allow only a reasonable fee.	(8) Le tribunal qui rend une décision aux termes de l'alinéa (7) a) n'accorde que des honoraires raisonnables.	Idem
Idem	(9) In making a determination under clause (7) (b), the court may consider the manner in which the solicitor conducted the proceeding.	(9) Le tribunal qui rend une décision aux termes de l'alinéa (7) b) peut examiner la façon dont le procureur s'est acquitté de sa tâche au cours de l'instance.	Idem
Motions	34. —(1) The same judge shall hear all motions before the trial of the common issues.	34 (1) Le même juge entend toutes les motions avant l'instruction des questions communes.	Motions
Idem	(2) Where a judge who has heard motions under subsection (1) becomes unavailable for any reason, the regional senior judge shall assign another judge of the court for the purpose.	(2) Si le juge qui a entendu des motions aux termes du paragraphe (1) n'est plus disponible pour quelque raison que ce soit, le juge principal régional affecte un autre juge à l'audition des motions.	Idem
Idem	(3) Unless the parties agree otherwise, a judge who hears motions under subsection (1) or (2) shall not preside at the trial of the common issues.	(3) Sauf accord contraire des parties, le juge qui entend les motions aux termes du paragraphe (1) ou (2) ne doit pas présider l'instruction des questions communes.	Idem
Rules of court	35. The rules of court apply to class proceedings.	35 Les règles de pratique s'appliquent aux recours collectifs.	Règles de pratique
Crown bound Application of Act	36. This Act binds the Crown. 37. This Act does not apply to, (a) a proceeding that may be brought in a representative capacity under another Act; (b) a proceeding required by law to be brought in a representative capacity; and (c) a proceeding commenced before this Act comes into force.	36 La présente loi lie la Couronne. 37 La présente loi ne s'applique pas : a) aux instances qui peuvent être introduites comme recours collectifs aux termes d'une autre loi; b) aux instances qui doivent, selon la loi, être introduites comme recours collectifs; c) aux instances introduites avant l'entrée en vigueur de la présente loi.	Loi liant la Couronne Champ d'application de la loi
Commencement	38. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.	38 La présente loi entre en vigueur le jour que le lieutenant-gouverneur fixe par proclamation.	Entrée en vigueur
Short title	39. The short title of this Act is the <i>Class Proceedings Act, 1990</i> .	39 Le titre abrégé de la présente loi est <i>Loi de 1990 sur les recours collectifs</i> .	Titre abrégé

Bill 29

An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings

The Hon. H. Hampton
Attorney General



1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill amends the *Law Society Act* to provide for the Class Proceedings Fund and establish the Class Proceedings Committee. The Class Proceedings Fund is to be administered by the Law Foundation of Ontario.

A plaintiff to a class proceeding may apply to the Class Proceedings Committee for financial support from the Class Proceedings Fund in respect of the plaintiff's disbursements related to the proceeding. The Bill sets out criteria for the Committee to consider in deciding whether to fund a plaintiff. A defendant to a class proceeding is entitled to payment from the Class Proceedings Fund in respect of costs awards made in the proceeding in the defendant's favour against a plaintiff who has received support from the Fund.

The Lieutenant Governor in Council is given regulation making powers relating to the Class Proceedings Fund.

An Act to amend the Law Society Act to provide for Funding to Parties to Class Proceedings

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 52 of the *Law Society Act* is amended by striking out “53, 54, 55, 56, 57, 58 and 59” in the first line and substituting “53 to 59e” and by adding the following definitions:

- (aa) “class proceeding” means a proceeding certified as a class proceeding on a motion made under section 2 or 3 of the *Class Proceedings Act, 1990*;
- (ab) “Committee” means the Class Proceedings Committee referred to in section 59b;
- (ac) “defendant” includes a respondent;
-
- (ba) “plaintiff” includes an applicant.

2. Subsection 55 (1) of the Act is amended by adding the following paragraph:

- 4. The provision of costs assistance to parties to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*.

3. The Act is amended by adding the following sections:

59a.—(1) The board shall,

- (a) establish an account of the Foundation to be known as the Class Proceedings Fund;
- (b) within sixty days after this Act comes into force, endow the Class Proceedings Fund with \$300,000 from the funds of the Foundation;
- (c) within one year after the day on which the endowment referred to in clause (b) is made, endow the Class Proceedings Fund with a further \$200,000 from the funds of the Foundation; and
- (d) administer the Class Proceedings Fund in accordance with this Act and the regulations.

(2) The Class Proceedings Fund shall be used for the following purposes:

1. Financial support for plaintiffs to class proceedings and to proceedings commenced under the *Class Proceedings Act, 1990*, in respect of disbursements related to the proceeding.

2. Payments to defendants in respect of costs awards made in their favour against plaintiffs who have received financial support from the Fund.

(3) Funds in the Class Proceedings Fund are funds of the Foundation within the meaning of section 56, but payments out of the Class Proceedings Fund shall relate to the administration or purposes of the Fund.

59b.—(1) The Class Proceedings Committee is established and shall be composed of,

- (a) one member appointed by the Foundation;
- (b) one member appointed by the Attorney General; and
- (c) three members appointed jointly by the Foundation and the Attorney General.

(2) Each member of the Class Proceedings Committee shall hold office for a period of three years and is eligible for re-appointment.

(3) Three members of the Committee constitute a quorum.

(4) Where there are not more than two vacancies in the membership of the Committee, the remaining members constitute the Committee for all purposes.

(5) The members of the Committee shall serve without remuneration, but each member is entitled to compensation for expenses incurred in carrying out the functions of the Committee.

59c.—(1) A plaintiff to a class proceeding or to a proceeding commenced under section 2 of the *Class Proceedings Act, 1990* may apply to the Committee for financial support from the Class Proceedings Fund in respect of disbursements related to the proceeding.

Application
of s. 56

Class
Proceedings
Committee

Term of
office

Quorum

Vacancies

Remuneration

Applications
by plaintiffs

Class
Proceedings
Fund

Purposes of
the Class
Proceedings
Fund

Idem

(2) An application under subsection (1) shall not include a claim in respect of solicitor's fees.

Committee may authorize payment

(3) The Committee may direct the board to make payments from the Class Proceedings Fund to a plaintiff who makes an application under subsection (1), in the amount that the Committee considers appropriate.

Idem

(4) In making a decision under subsection (3), the Committee may have regard to,

- (a) the merits of the plaintiff's case;
- (b) whether the plaintiff has made reasonable efforts to raise funds from other sources;
- (c) whether the plaintiff has a clear and reasonable proposal for the use of any funds awarded;
- (d) whether the plaintiff has appropriate financial controls to ensure that any funds awarded are spent for the purposes of the award; and
- (e) any other matter that the Committee considers relevant.

Supplementary funding

(5) A plaintiff who has received funding under subsection (3) may apply to the Committee at any time up to the end of the class proceeding for supplementary funding and the Committee may direct the board to make further payments from the Class Proceedings Fund to the plaintiff if the Committee is of the opinion, having regard to all the circumstances, that it is appropriate to do so.

Board shall make payments

(6) The board shall make payments in accordance with any directions given by the Committee under this section.

Applications by defendants

59d.—(1) A defendant to a proceeding may apply to the board for payment from the Class Proceedings Fund in respect of a costs award made in the proceeding in the defendant's favour against a plaintiff who has received financial support from the Class Proceedings Fund in respect of the proceeding.

Board shall make payments

(2) The board shall make payments applied for in accordance with subsection (1) from the Class Proceedings Fund, subject to any limits or tariffs applicable to such payments prescribed by the regulations.

Plaintiff not liable

(3) A defendant who has the right to apply for payment from the Class Proceed-

ings Fund in respect of a costs award against a plaintiff may not recover any part of the award from the plaintiff.

59e.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting the administration of the Class Proceedings Fund;
- (b) establishing procedures for making applications under sections 59c and 59d;
- (c) establishing criteria in addition to those set out in section 59c for decisions of the Committee under section 59c;
- (d) establishing limits and tariffs for payments under sections 59c and 59d;
- (e) prescribing conditions of awards under section 59c;
- (f) providing for the assessment of costs in respect of which a claim is made under section 59d;
- (g) providing for levies in favour of the Class Proceedings Fund against awards and settlement funds in proceedings in respect of which a party receives financial support from the Class Proceedings Fund.

(2) A regulation made under clause (1) (d) may provide for different limits and tariffs for different stages and types of proceedings. Idem

(3) A regulation made under clause (1) (g) may provide for levies that exceed the amount of financial support received by the parties to a proceeding. Idem

(4) A regulation made under clause (1) (g) may provide for levies based on a formula that takes the amount of an award or settlement fund into account. Idem

(5) A levy under clause (1) (g) against a settlement fund or monetary award is a charge on the fund or award. Idem

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-ment

5. The short title of this Act is the *Law Society Amendment Act (Class Proceedings Funding), 1990.* Short title

Bill 30

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education



1st Reading December 17th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

1. The provisions relating to pupil records are amended to comply with freedom of information legislation by authorizing the collection of information to be included in pupil records and by authorizing the release of certain information to the local medical officer of health (subsection 1 (2) and sections 6 and 7 of the Bill).
2. The Minister is authorized to provide funds to boards for the construction of child care facilities on school sites (subsection 1 (3) and section 2 of the Bill).
3. Boards are empowered to construct and renovate child care facilities and to include the amounts required for that construction and renovation in their estimates (section 5 of the Bill).
4. Demonstration schools are authorized to provide special education programs and services, in a residential or non-residential setting, for exceptional pupils with learning disabilities or hearing or visual impairments (section 3 of the Bill).
5. The Minister is authorized to enter into licence agreements to obtain the right for school boards to copy works protected by copyright and covered by the licence agreement (subsection 1 (1) of the Bill).
6. Public boards and Roman Catholic school boards are permitted to share sick leave gratuities for designated teachers in a ratio agreed upon by the boards (section 4 of the Bill).

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
- (i) extend the rights under the licence agreement to boards, and
- (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

(4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4. Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2, is amended by adding the following subsection:

(20a) Despite subsection (20), the public board and the Roman Catholic school board may agree to share the amount of the payment under subsection (18) or (19) in any manner, including the payment of the entire amount by either board.

5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school.

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1),

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

6. Clause 236 (d) of the Act is repealed and the following substituted:

- (d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Copyright
licence
agreements

Capital
allocations

Idem

Idem

Child care
facilities

Child care
facilities

Pupil records

Definition

(1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) **Clause 237 (2) (a) of the Act is repealed and the following substituted:**

- (a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) **Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is further amended by adding the following subsection:**

Information to medical officer of health

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent. Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991. Idem

(3) Section 4 shall be deemed to have come into force on the 1st day of January, 1989. Idem

9. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1990.* Short title

Bill 30

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education



1st Reading December 17th, 1990
2nd Reading June 13th, 1991
3rd Reading
Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

1. The provisions relating to pupil records are amended to comply with freedom of information legislation by authorizing the collection of information to be included in pupil records and by authorizing the release of certain information to the local medical officer of health (subsection 1 (2) and sections 6 and 7 of the Bill).
2. The Minister is authorized to provide funds to boards for the construction of child care facilities on school sites (subsection 1 (3) and section 2 of the Bill).
3. Boards are empowered to construct and renovate child care facilities and to include the amounts required for that construction and renovation in their estimates (section 5 of the Bill).
4. Demonstration schools are authorized to provide special education programs and services, in a residential or non-residential setting, for exceptional pupils with learning disabilities or hearing or visual impairments (section 3 of the Bill).
5. The Minister is authorized to enter into licence agreements to obtain the right for school boards to copy works protected by copyright and covered by the licence agreement (subsection 1 (1) of the Bill).
6. Public boards and Roman Catholic school boards are permitted to share sick leave gratuities for designated teachers in a ratio agreed upon by the boards (section 4 of the Bill).

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
- (i) extend the rights under the licence agreement to boards, and
- (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

(4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4.—(1) Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2 and amended by 1990, chapter 24, section 6, is further amended by adding the following subsection:

(20fa) Despite subsection (20f), the boards concerned may agree to share the amount of the payment under subsection (20d) or (20e) in any manner, including the payment of the entire amount by one of the boards. Idem

(2) Subsection 136-1 (20g) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 24, section 6, is amended by striking out “subsections (20d) to (20f)” in the first line and substituting “subsections (20d) to (20fa)”.

(3) Boards to which former subsection 136-1 (20) of the Act applied before the 20th day of December, 1990 shall, despite that subsection, be deemed to have had the authority to agree to share the amount of a payment under former subsection 136-1 (18) or (19) of the Act in any manner, including the payment of the entire amount by one of the boards.

5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school. Child care facilities

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1), Child care facilities

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

Copyright
licence
agreements

Capital
allocations

Idem

6. Clause 236 (d) of the Act is repealed and the following substituted:

Pupil records

- (d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Definition

- (1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

- (a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is further amended by adding the following subsection:

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

Information to medical officer of health

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent.

Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991.

Idem

(3) Section 4 shall be deemed to have come into force on the 20th day of December, 1990.

Idem

9. The short title of this Act is the *Education Amendment Act (Miscellaneous), 1991.*

Short title

Bill 30

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 30

*(Chapter 10
Statutes of Ontario, 1991)*

An Act to amend the Education Act

The Hon. M. Boyd
Minister of Education



1st Reading	December 17th, 1990
2nd Reading	June 13th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 8 (1) of the *Education Act*, as amended by the Statutes of Ontario, 1982, chapter 32, section 3, 1984, chapter 60, section 2 and 1989, chapter 1, section 1, is further amended by adding the following clause:

- (wa) enter into a licence agreement to permit boards to copy, under the terms of the licence agreement, works protected by copyright, and to,
 - (i) extend the rights under the licence agreement to boards, and
 - (ii) require boards to comply with the terms of the licence agreement.

(2) Clause 8 (1) (za) of the Act, as enacted by the Statutes of Ontario, 1989, chapter 1, section 1, is amended by striking out “the keeping of” in the first line.

(3) Subsection 8 (1) of the Act is further amended by adding the following clause:

- (zh) make allocations in respect of the construction of child care facilities on school sites.

2. Subsection 10 (3) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 2, is further amended by adding the following clause:

- (aa) governing the apportionment and distribution of money appropriated or raised by the Legislature for the construction of child care facilities in schools.

3. Section 12 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 6, is further amended by adding the following subsection:

(4a) A demonstration school may provide, in a residential or non-residential setting, special education programs and special education services for exceptional pupils with learning disabilities or with hearing or visual impairments.

4.—(1) Section 136-1 of the Act, as enacted by the Statutes of Ontario, 1986, chapter 21, section 2 and amended by 1990, chapter 24, section 6, is further amended by adding the following subsection:

(20fa) Despite subsection (20f), the boards concerned may agree to share the amount of the payment under subsection (20d) or (20e) in any manner, including the payment of the entire amount by one of the boards.

(2) Subsection 136-1 (20g) of the Act, as enacted by the Statutes of Ontario, 1990, chapter 24, section 6, is amended by striking out “subsections (20d) to (20f)” in the first line and substituting “subsections (20d) to (20fa)”.

(3) Boards to which former subsection 136-1 (20) of the Act applied before the 20th day of December, 1990 shall, despite that subsection, be deemed to have had the authority to agree to share the amount of a payment under former subsection 136-1 (18) or (19) of the Act in any manner, including the payment of the entire amount by one of the boards.

5.—(1) Subsection 150 (1) of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following paragraph:

- 47. construct and renovate child care facilities in any school.

(2) Section 150 of the Act, as amended by the Statutes of Ontario, 1982, chapter 32, section 40, 1984, chapter 60, section 10, 1989, chapter 1, section 17 and 1989, chapter 2, section 3, is further amended by adding the following subsection:

(3) For the purpose of subsection 209 (1), the construction or renovation of child care facilities under paragraph 47 of subsection (1),

- (a) in a public school is deemed to be a public school purpose; and
- (b) in a secondary school is deemed to be a secondary school purpose.

Copyright
licence
agreements

Capital
allocations

Idem

Idem

Child care
facilities

Child care
facilities

6. Clause 236 (d) of the Act is repealed and the following substituted:

Pupil records

(d) in accordance with this Act, the regulations and the guidelines issued by the Minister, to collect information for inclusion in a record in respect of each pupil enrolled in the school and to establish, maintain, retain, transfer and dispose of the record.

7.—(1) Subsection 237 (1) of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, section 27, is repealed and the following substituted:

Definition

(1) In this section, except in subsection (12), "record", in respect of a pupil, means a record under clause 236 (d).

(2) Clause 237 (2) (a) of the Act is repealed and the following substituted:

(a) subject to subsections (2a), (3) and (5), is not available to any other person; and

(3) Section 237 of the Act, as amended by the Statutes of Ontario, 1989, chapter 1, sec-

tion 27, is further amended by adding the following subsection:

(2a) The principal of a school shall, upon request by the medical officer of health serving the area in which the school is located, give that medical officer of health the following information in respect of pupils enrolled in the school:

Information to medical officer of health

1. The pupil's name, address and telephone number.
2. The pupil's birthdate.
3. The name, address and telephone number of the pupil's parent or guardian.

8.—(1) This Act, except subsection 1 (2) and sections 4, 6 and 7, comes into force on the day it receives Royal Assent.

Commencement

(2) Subsection 1 (2) and sections 6 and 7 shall be deemed to have come into force on the 1st day of January, 1991.

Idem

(3) Section 4 shall be deemed to have come into force on the 20th day of December, 1990.

Idem

9. The short title of this Act is the *Education Amendment Act (Miscellaneous)*, 1991.

Short title

Bill 31

Private Member's Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 31

An Act to amend the Representation Act, 1986

Mr. Villeneuve



1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

Self-explanatory.

An Act to amend the Representation Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The Schedule to the *Representation Act, 1986* is amended by renaming “THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY” as “THE ELECTORAL DISTRICT OF S-D-G & EAST GRENVILLE”.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Representation Amendment Act, 1990*. Short title

Bill 31

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 31

(Chapter 2
Statutes of Ontario, 1991)

An Act to amend the Representation Act, 1986

Mr. Villeneuve



1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	April 3rd, 1991
Royal Assent	April 4th, 1991

An Act to amend the Representation Act, 1986

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** The Schedule to the *Representation Act, 1986* is amended by renaming "THE ELECTORAL DISTRICT OF STORMONT, DUNDAS AND GLENGARRY" as "THE ELECTORAL DISTRICT OF S-D-G & EAST GRENVILLE".
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is the *Representation Amendment Act, 1991*. Short title

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Bill 32

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chairman of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

The chairman would be allowed to have a vote. At present the chairman does not have a vote except in cases of a tied vote.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

4a.—(1) The chairman shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chairman if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

(4) Nominations for the office of chairman shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chairman.

(3b) The person shall not take the office of chairman until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out “Subject to subsection (3)” at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chairman, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in office of chairman

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member's seat thereby becomes vacant. Vacancy filled by member of council of area municipality

6.—(1) *Clause 2 (a) of the Municipal Elections Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:*

(vi) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding “or” at the end of subclause (vi) and by adding the following subclause:

(vii) chairman of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

Election of
chairman

Qualifications
of chairman

Returning
officer

Nominations

Results of
vote

Certificate
under seal

further amended by adding the following paragraph:

- 2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chairman of the Regional Council.

Commence-
ment

7.—(1) This Act comes into force on the 1st day of December, 1991.

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force. Idem

8. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1990*. Short title

Bill 32

Government Bill

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 32

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs



1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	
Royal Assent	

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to provide for the election of the chair of the Regional Council of The Regional Municipality of Ottawa-Carleton by direct vote of the electors in the regional municipality.

The chair would be allowed to have a vote. At present the chair does not have a vote except in cases of a tied vote.

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

Election of
chair

4a.—(1) The chair shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

Qualifications
of chair

(2) A person is qualified to hold office as chair if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

Returning
officer

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

Nominations

(4) Nominations for the office of chair shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

Results of
vote

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

Certificate
under seal

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chair.

(3b) The person shall not take the office of chair until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out "Subject to subsection (3)" at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chair, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in
office of
chair

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member's seat thereby becomes vacant. Vacancy
filled by
member of
council of
area municipi-
ality

6.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:

(vi) chair of the council of The Regional Municipality of Ottawa-Carleton.


(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding "or" at the end of subclause (vi) and by adding the following subclause:


(vii) chair of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

further amended by adding the following paragraph:

- 2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chair of the Regional Council.

 7.—(1) The *Regional Municipality of Ottawa-Carleton Act* is amended by striking out “chairman” wherever it appears and substituting “chair”.

(2) The *Municipal Elections Act* is amended by striking out “chairman” wherever it appears and substituting “chair”. 

8.—(1) This Act comes into force on the 1st day of December, 1991. Commence-
ment

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force. Idem

9. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1991*. Short title

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Bill 32

Governme
Publication

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

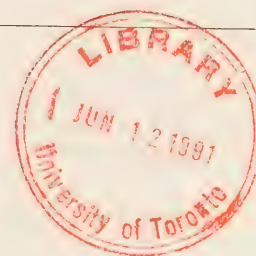
Bill 32

(Chapter 3
Statutes of Ontario, 1991)

An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

The Hon. D. Cooke
Minister of Municipal Affairs

1st Reading	December 18th, 1990
2nd Reading	March 28th, 1991
3rd Reading	April 4th, 1991
Royal Assent	April 8th, 1991



An Act to amend the Regional Municipality of Ottawa-Carleton Act and the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 4 (2), (3) and (4) of the *Regional Municipality of Ottawa-Carleton Act* are repealed.

2. The Act is amended by adding the following section:

4a.—(1) The chair shall be elected by general vote of the electors of the area municipalities to be held concurrently with the regular election in the area municipalities.

(2) A person is qualified to hold office as chair if he or she is entitled to be an elector under section 12 or 13 of the *Municipal Elections Act* for the election of members of the council of an area municipality and is not disqualified to hold the office by this or any other Act.

(3) The clerk of The Corporation of the City of Ottawa is the returning officer for the election.

(4) Nominations for the office of chair shall be filed with the clerk of The Corporation of the City of Ottawa, who shall send the names of the candidates to the clerk of each other area municipality by registered mail within forty-eight hours after the closing of nominations.

(5) The clerk of each area municipality is the returning officer for the vote to be recorded in the area municipality and shall promptly report the vote recorded to the clerk of The Corporation of the City of Ottawa, who shall prepare the final summary and announce the vote.

3. Section 11 of the Act, as amended by the Statutes of Ontario, 1986, chapter 46, section 6, is further amended by adding the following subsections:

(3a) The clerk of The Corporation of the City of Ottawa shall, immediately after the election, certify under the seal of the area municipality to the Regional Corporation the

name of the person who has been elected chair.

(3b) The person shall not take the office of chair until the clerk of the Regional Corporation has received the certificate under subsection (3a). Idem

4.—(1) Subsection 13 (2) of the Act is amended by striking out “Subject to subsection (3)” at the beginning.

(2) Subsection 13 (3) of the Act is repealed.

5. Subsections 14 (1), (2) and (3) of the Act are repealed and the following substituted:

(1) If a vacancy occurs in the office of the chair, sections 45, 46 and 47 of the *Municipal Act* apply with necessary modifications to the filling of the vacancy as though the office were the office of mayor. Vacancy in office of chair

(2) A member of the council of an area municipality who fills a vacancy referred to in subsection (1) shall be deemed to have resigned as a member of the council and the member's seat thereby becomes vacant. Vacancy filled by member of council of area municipality

6.—(1) Clause 2 (a) of the *Municipal Elections Act*, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding the following subclause:

(vi) chair of the council of The Regional Municipality of Ottawa-Carleton.

(2) Subsection 44 (7) of the Act, as amended by the Statutes of Ontario, 1987, chapter 12, section 11, is further amended by adding “or” at the end of subclause (vi) and by adding the following subclause:

(vii) chair of the council of The Regional Municipality of Ottawa-Carleton.

(3) Subsection 49 (1) of the Act, as amended by the Statutes of Ontario, 1986, chapter 29, section 12, 1987, chapter 12, section 11 and 1988, chapter 47, section 82, is

Election of chair

Qualifications of chair

Returning officer

Nominations

Results of vote

Certificate under seal

further amended by adding the following paragraph:

- 2b. In The Regional Municipality of Ottawa-Carleton, the elector is entitled to vote once only for one candidate for chair of the Regional Council.

7.—(1) The *Regional Municipality of Ottawa-Carleton Act* is amended by striking out “chairman” wherever it appears and substituting “chair”.

(2) The *Municipal Elections Act* is amended by striking out “chairman” wherever it appears and substituting “chair”.

8.—(1) This Act comes into force on the 1st day of December, 1991. Commence-
ment

(2) Despite subsection (1), the regular elections to be held in 1991 under the *Municipal Elections Act* shall be conducted as if this Act were in force. Idem

9. The short title of this Act is the *Regional Municipality of Ottawa-Carleton Statute Law Amendment Act, 1991*. Short title

Bill 33

An Act to amend the Health Disciplines Act

Mr. Henderson



1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill amends Part III (Medicine) of the *Health Disciplines Act*.

New section 52a prohibits members of the College of Physicians and Surgeons of Ontario, except where required by specified statutes, from disclosing medical information concerning a patient to third parties without the patient's consent. The section requires members to give a patient sufficient information to enable the patient to decide whether to consent to disclosure and, in addition, sets out the requirements for valid consent. Nothing will be shown in a patient's file or medical record to indicate that consent to disclosure of information was withheld.

An Act to amend the Health Disciplines Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act* is amended by adding the following section:

Confiden-
tiality of
medical
information

52a.—(1) Despite any obligations of the member under an employment contract or an agency arrangement, no member shall disclose to a third party any information concerning a patient's medical condition unless the patient consents to disclosure.

Exception

(2) Subsection (1) does not apply where the member has an obligation to disclose under,

- (a) subsection 177 (1) of the *Highway Traffic Act*;
- (b) sections 25 and 26 of the *Health Protection and Promotion Act, 1983*; or
- (c) regulations regarding designated substances made under the *Occupational Health and Safety Act*.

(3) Following an examination, a member shall offer counsel to a patient on the general findings of the examination sufficient to enable the patient to decide whether to consent to disclosure of information arising from that examination to a third party.

Member to
counsel
patient

(4) The consent of a patient to disclosure of information is valid only,

When
consent of
patient valid

- (a) when in writing;
- (b) when given at the completion of an examination; and
- (c) after the patient has been counselled by the member in accordance with subsection (3).

(5) The member who conducted the examination shall not indicate in the patient's file or medical record that consent to disclosure of information was withheld.

Patient's file
or medical
record

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Health Disciplines Amendment Act, 1990*.

Short title

Bill 34

An Act to amend the Workers' Compensation Act



Mr. Henderson

1st Reading	December 18th, 1990
2nd Reading	
3rd Reading	
Royal Assent	

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to allow a worker to refuse his or her consent to disclosure of medical information obtained during medical examinations required by the Act. Once the worker has refused consent, he or she can choose to withdraw their claim for compensation. If the claim is withdrawn, nothing will be shown in the worker's file or medical record to indicate the reason for the withdrawal.

Bill 34

An Act to amend the Workers' Compensation Act

Mr. Henderson

1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to allow a worker to refuse his or her consent to disclosure of medical information obtained during medical examinations required by the Act. Once the worker has refused consent, he or she can choose to withdraw their claim for compensation. If the claim is withdrawn, nothing will be shown in the worker's file or medical record to indicate the reason for the withdrawal.

Bill 34

1990

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 21 of the *Workers' Compensation Act*, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 8, is amended by adding the following subsections: R.S.O. 1980,
c. 539

(3) The worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings, Worker may
refuse
consent to
disclosure

(a) refuse to consent to the disclosure to the employer of any medical information arising out of the examination; and

(b) withdraw his or her claim for compensation.

(4) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (1) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim. Claim for
compensation
withdrawn

2. Section 75 of the Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding the following subsections:

(5) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings, Worker may
refuse
consent to
disclosure

(a) refuse to consent to the disclosure to the Board of any medical information arising out of the medical examination; and

(b) withdraw his or her claim for compensation.

Claim for
compensation
withdrawn

(6) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (3) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

3. Section 86h of the Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding the following subsections:

Worker may
refuse
consent to
disclosure

(8) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

(a) refuse to consent to the disclosure to the Appeals Tribunal of any medical information arising out of the medical examination; and

(b) withdraw his or her claim for compensation.

Claim for
compensation
withdrawn

(9) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (4) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Workers' Compensation Amendment Act, 1990*.

An Act to amend the Workers' Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 21 of the *Workers' Compensation Act*, as re-enacted by the Statutes of Ontario, 1984, chapter 58, section 8, is amended by adding the following subsections:

Worker may
refuse
consent to
disclosure

(3) The worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

(a) refuse to consent to the disclosure to the employer of any medical information arising out of the examination; and

(b) withdraw his or her claim for compensation.

Claim for
compensation
withdrawn

(4) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (1) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

2. Section 75 of the Act, as amended by the Statutes of Ontario, 1984, chapter 58, section 27, is further amended by adding the following subsections:

Worker may
refuse
consent to
disclosure

(5) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

(a) refuse to consent to the disclosure to the Board of any medical information

arising out of the medical examination; and

(b) withdraw his or her claim for compensation.

(6) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (3) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

Claim for
compensation
withdrawn

3. Section 86h of the Act, as enacted by the Statutes of Ontario, 1984, chapter 58, section 32, is amended by adding the following subsections:

(8) Notwithstanding section 53, the worker may, during or at the completion of the medical examination, and after the medical practitioner has counselled the worker as to the general nature of the findings,

Worker may
refuse
consent to
disclosure

(a) refuse to consent to the disclosure to the Appeals Tribunal of any medical information arising out of the medical examination; and

(b) withdraw his or her claim for compensation.

(9) Where a worker withdraws his or her claim for compensation, the medical practitioner who conducted the medical examination pursuant to subsection (4) shall not indicate in the worker's file or medical record the reason for the withdrawal of the claim.

Claim for
compensation
withdrawn

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

5. The short title of this Act is the *Workers' Compensation Amendment Act, 1990*.

Short title

Bill 35

An Act respecting Vacancies in Municipal Offices

Mr. Callahan



1st Reading December 18th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to provide that in the event of a vacancy occurring on a municipal council or school board, the council or board must appoint the candidate who received the second-highest number of votes at the election at which the council or board member who is no longer in office was elected.

An Act respecting Vacancies in Municipal Offices

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definition

1. In this Act,

“board” means board as defined in the *Education Act* and includes the Ottawa-Carleton French-language School Board;

“municipality” includes a district, regional or metropolitan municipality and the County of Oxford.

Vacancy to be filled by appointment

2.—(1) If a vacancy occurs in the office of a member of a board or the council of a municipality and the member was elected otherwise than by acclamation or by vote of the other members of the board or council, the board or council shall fill the

vacancy by appointing the unsuccessful candidate for that office who received the highest number of votes at the election at which the member was elected.

(2) Subsection (1) does not apply if the unsuccessful candidate who received the highest number of votes is unwilling or unable to hold the office or is no longer qualified to hold the office.

Exception

3. If there is a conflict between this Act and any other Act, this Act prevails to the extent of the conflict.

This Act to prevail

4. This Act comes into force on the day it receives Royal Assent.

Commencement

5. The short title of this Act is the *Municipal Offices Vacancies Act, 1990*.

Short title

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Government
Publications

Bill 36

Government Bill

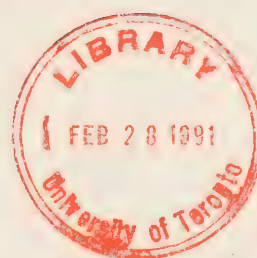
1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 36

An Act to amend certain Acts respecting Assessment

The Hon. S. Wark-Martyn
Minister of Revenue



1st Reading December 19th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The Bill would allow the Ministry of Revenue to prepare the equalized assessments and equalization factors of municipalities and localities on a quadrennial basis. The first one would take place in 1993. However, if a municipality or locality experiences a major change in its tax base or if merged area calculations are required to support county restructuring, the Ministry of Revenue shall determine the relevant equalized assessment and equalization factor. The Ministry of Revenue would no longer be required to carry out annual mini-enumerations.

Complementary amendments are made to the *Ontario Unconditional Grants Act*.

The provisions dealing with apportionment have been transferred from the *Ontario Unconditional Grants Act* to the *Municipal Act*.

An Act to amend certain Acts respecting Assessment

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 14 (2) of the *Assessment Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is repealed.

(2) Subsection 14 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is amended by striking out “or (2)” in the second and third lines.

2. Subsection 15 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 22, is repealed and the following substituted:

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the last enumeration, including updates thereto under subsection 14 (6).

3.—(1) Subsection 55 (1) of the Act is amended by adding at the beginning “In every fourth year, commencing in 1993”.

(2) Subsection 55 (3) of the Act is amended by inserting after “year” in the third line “referred to in subsection (1)”.

(3) Section 55 of the Act, as amended by the Statutes of Ontario, 1982, chapter 40, section 3 and 1983, chapter 58, section 3, is further amended by adding the following subsections:

(9) The equalized assessment and equalization factor published in *The Ontario Gazette* on the 14th day of July, 1990, as amended or adjusted after appeal, shall be the equalized assessment and equalization factor for each municipality and locality until a new equalized assessment and equalization factor is published in 1993.

(10) If the Ministry receives a request from the Ministry of Education, the Ministry of Municipal Affairs or the Ministry of Northern Development and Mines, it shall determine the equalized assessment and equalization factor for a municipality or locality,

(a) if the municipality or locality has experienced a significant change in the assessment of rateable property; or

(b) if merged area calculations are required to support county restructuring.

(11) The equalized assessment and equalization factor determined under subsection (10) shall be published in *The Ontario Gazette* and replaces the equalized assessment and equalization factor last published for the municipality or locality.

4. Section 9a of the *Ontario Unconditional Grants Act*, as enacted by the Statutes of Ontario, 1981, chapter 9, section 9, is repealed.

5. The *Municipal Act* is amended by adding the following section:

365a.—(1) In this section,

“area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in the *County of Oxford Act*;

“commercial assessment” has the same meaning as in section 368a;

“district board” means a district welfare administration board established under the *District Welfare Administration Boards Act* or a board of management established under the *Homes for the Aged and Rest Homes Act*;

“lower tier municipality” means a city, town, village, township or improvement district;

“merged area” means a merged area as defined in an Act establishing a regional municipality;

“regional municipality” means a metropolitan, regional or district municipality as defined in the Act establishing the municipality and includes the County of Oxford;

“residential and farm assessment” has the same meaning as in section 368a;

“supporting municipality” means,

(a) an area municipality,

Preparation
of list

Transition

Exception

Publication

Definitions

- (b) a municipality required to provide money to a county for county purposes under subsection 365 (6), and
- (c) a municipality that is located wholly or partly within an area under the jurisdiction of a district board or a conservation authority and against which an apportionment utilizing equalized assessment is to be made in any year by the district board or conservation authority;

“upper tier municipality” means a county or regional municipality.

Regulations

(2) Notwithstanding this Act or any other general or special Act, the Lieutenant Governor in Council may, each year by regulation, prescribe the basis on which apportionments, levies and requisitions are to be made by the councils of upper and lower tier municipalities and by any local board, or class thereof, specified in the regulation.

Retroactivity

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Application for review

(4) Where, in respect of any year, the council of a supporting municipality is of the opinion that an apportionment made pursuant to a regulation made under subsection (2) is incorrect because of,

- (a) an error or omission in the amount of the residential and farm assessment or

commercial assessment of one or more supporting municipalities;

- (b) an error or omission in the application of a factor used to equalize the residential and farm assessment or commercial assessment of one or more supporting municipalities;

- (c) an error or omission in a calculation; or

- (d) the failure to apply one or more provisions of the regulation,

the council may apply to the Ministry within thirty days after notice of the apportionment was sent to the supporting municipality for a review to determine the correct proportion of the apportionments, levies or requisitions that each supporting municipality or part thereof shall bear in each year.

(5) Any supporting municipality that is dissatisfied with the decision resulting from the Ministry review may, within thirty days after notice of the review was sent to the municipality, appeal in writing to the Municipal Board.

Appeal to
Municipal
Board

6. This Act comes into force on the 1st day of January, 1991.

Commence-
ment

7. The short title of this Act is the *Assessment Statute Law Amendment Act, 1990*.

Short title

Bill 36

1ST SESSION, 35TH LEGISLATURE, ONTARIO

39 ELIZABETH II, 1990

Bill 36

*(Chapter 11
Statutes of Ontario, 1991)*

An Act to amend certain Acts respecting Assessment

The Hon. S. Wark-Martyn
Minister of Revenue



1st Reading	December 19th, 1990
2nd Reading	June 19th, 1991
3rd Reading	June 24th, 1991
Royal Assent	June 27th, 1991

An Act to amend certain Acts respecting Assessment

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 14 (2) of the *Assessment Act*, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is repealed.

(2) Subsection 14 (6) of the Act, as enacted by the Statutes of Ontario, 1988, chapter 20, section 21, is amended by striking out “or (2)” in the second and third lines.

2. Subsection 15 (2) of the Act, as re-enacted by the Statutes of Ontario, 1988, chapter 20, section 22, is repealed and the following substituted:

(2) Subject to subsection (3), the list referred to in subsection (1) shall be prepared on the basis of information contained in the last enumeration, including updates thereto under subsection 14 (6).

3.—(1) Subsection 55 (1) of the Act is amended by adding at the beginning “In every fourth year, commencing in 1993”.

(2) Subsection 55 (3) of the Act is amended by inserting after “year” in the third line “referred to in subsection (1)”.

(3) Section 55 of the Act, as amended by the Statutes of Ontario, 1982, chapter 40, section 3 and 1983, chapter 58, section 3, is further amended by adding the following subsections:

(9) The equalized assessment and equalization factor published in *The Ontario Gazette* on the 14th day of July, 1990, as amended or adjusted after appeal, shall be the equalized assessment and equalization factor for each municipality and locality until a new equalized assessment and equalization factor is published in 1993.

(10) If the Ministry receives a request from the Ministry of Education, the Ministry of Municipal Affairs or the Ministry of Northern Development and Mines, it shall determine the equalized assessment and equalization factor for a municipality or locality,

- (a) if the municipality or locality has experienced a significant change in the assessment of rateable property; or
- (b) if merged area calculations are required to support county restructuring.

(11) The equalized assessment and equalization factor determined under subsection (10) shall be published in *The Ontario Gazette* and replaces the equalized assessment and equalization factor last published for the municipality or locality.

4. Section 9a of the *Ontario Unconditional Grants Act*, as enacted by the Statutes of Ontario, 1981, chapter 9, section 9, is repealed.

5. The *Municipal Act* is amended by adding the following section:

365a.—(1) In this section,

“area municipality” means an area municipality as defined in any Act establishing a metropolitan, regional or district municipality and in the *County of Oxford Act*;

“commercial assessment” has the same meaning as in section 368a;

“district board” means a district welfare administration board established under the *District Welfare Administration Boards Act* or a board of management established under the *Homes for the Aged and Rest Homes Act*;

“lower tier municipality” means a city, town, village, township or improvement district;

“merged area” means a merged area as defined in an Act establishing a regional municipality;

“regional municipality” means a metropolitan, regional or district municipality as defined in the Act establishing the municipality and includes the County of Oxford;

“residential and farm assessment” has the same meaning as in section 368a;

“supporting municipality” means,

- (a) an area municipality,

Preparation
of list

Transition

Exception

Publication

Definitions

- (b) a municipality required to provide money to a county for county purposes under subsection 365 (6), and
- (c) a municipality that is located wholly or partly within an area under the jurisdiction of a district board or a conservation authority and against which an apportionment utilizing equalized assessment is to be made in any year by the district board or conservation authority;

“upper tier municipality” means a county or regional municipality.

Regulations

(2) Notwithstanding this Act or any other general or special Act, the Lieutenant Governor in Council may, each year by regulation, prescribe the basis on which apportionments, levies and requisitions are to be made by the councils of upper and lower tier municipalities and by any local board, or class thereof, specified in the regulation.

Retroactivity

(3) A regulation is, if it so provides, effective with reference to a period before it is filed.

Application for review

(4) Where, in respect of any year, the council of a supporting municipality is of the opinion that an apportionment made pursuant to a regulation made under subsection (2) is incorrect because of,

- (a) an error or omission in the amount of the residential and farm assessment or

commercial assessment of one or more supporting municipalities;

- (b) an error or omission in the application of a factor used to equalize the residential and farm assessment or commercial assessment of one or more supporting municipalities;
- (c) an error or omission in a calculation; or
- (d) the failure to apply one or more provisions of the regulation,

the council may apply to the Ministry within thirty days after notice of the apportionment was sent to the supporting municipality for a review to determine the correct proportion of the apportionments, levies or requisitions that each supporting municipality or part thereof shall bear in each year.

(5) Any supporting municipality that is dissatisfied with the decision resulting from the Ministry review may, within thirty days after notice of the review was sent to the municipality, appeal in writing to the Municipal Board.

Appeal to
Municipal
Board

6. This Act comes into force on the 1st day of January, 1991.

Commence-
ment

7. The short title of this Act is the *Assessment Statute Law Amendment Act, 1991*.

Short title

Bill 37

An Act to provide for the Licensing of Motor Boat Operators

Mr. McLean



1st Reading December 19th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The Bill, which applies only in respect of motor boats propelled by engines of at least twenty-five horsepower, prohibits the operation of such a motor boat by any person who does not have a motor boat operator's licence or by any person who has not completed a motor boat operation course.

The Bill requires every person to carry a licence while operating a motor boat to which the Bill applies, and to produce it when requested to do so by a police officer. If unable or unwilling to produce the licence, the motor boat operator is required to give the police officer his or her correct name or address.

The Bill creates the offences of careless operation of a motor boat and impaired operation of a motor boat.

A person who contravenes any of the provisions of the Bill or certain regulations made under the Bill is liable to pay a fine not exceeding \$1,000 and, in some cases, to have his or her motor boat operator's licence suspended or revoked.

An Act to provide for the Licensing of Motor Boat Operators

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“Minister” means the Minister of Transportation;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

Application

2. This Act applies only in respect of motor boats propelled by engines of at least twenty-five horsepower.

Where licence required

3. No person shall operate a motor boat unless,

(a) he or she has a licence issued under subsection 4 (1); or

(b) he or she is a resident of another province, country or state and has a licence issued by that province, country or state authorizing the operation of a motor boat.

Issuance of licences

4.—(1) The Minister or any person authorized in writing by the Minister shall issue a motor boat operator’s licence to any person who applies in accordance with the regulations, pays the prescribed fee, and,

(a) is at least twelve years of age and has successfully completed a motor boat operation course in accordance with the regulations; or

(b) is at least sixteen years of age and has successfully completed a written examination in accordance with the regulations.

Idem

(2) A person who is authorized by the Minister under subsection (1) to issue licences may retain, from the fee paid in respect of each licence issued, an amount that is approved in writing by the Minister.

Definition

5.—(1) In this section, “licence” means,

(a) a licence issued under subsection 4 (1); or

(b) with respect to a resident of another province, country or state, a licence issued by that province, country or state authorizing the operation of a motor boat.

(2) Every person shall carry his or her licence at all times while operating a motor boat and shall produce it when requested to do so by a police officer.

Operator to carry licence

(3) Every person who is unable or refuses to produce a licence in accordance with subsection (2) shall give his or her correct name and address to the police officer upon request.

Operator to identify self

(4) A police officer who, on reasonable and probable grounds, believes that a person has contravened subsection (3) may arrest the person without warrant.

Arrest without warrant

6.—(1) No person shall operate a motor boat without due care and attention or without reasonable consideration for others.

Careless operation

(2) No person whose ability to operate a motor boat is impaired by alcohol or a drug shall operate a motor boat.

Impaired operation

7.—(1) Every person who contravenes section 3, 5 or 6 or a regulation made under clause 8 (d) is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.

Offences and fines

(2) In addition to any fine that may be imposed under subsection (1), the licence of any person who is convicted of contravening section 5 or 6, or a regulation made under clause 8 (d), may be suspended for a period of up to two years or may be revoked.

Suspension and revocation of licences

8. The Lieutenant Governor in Council may make regulations,

Regulations

(a) providing for the periodic expiry and renewal of motor boat operators’ licences;

(b) establishing procedures for obtaining or renewing motor boat operators’ licences;

- (c) prescribing fees for the issuance or renewal of motor boat operators' licences;
- (d) designating classes of motor boats that may not be operated by persons under sixteen years of age;
- (e) respecting motor boat operation courses to be completed by applicants for motor boat operators' licences who are under the age of sixteen;

- (f) respecting written examinations to be completed by applicants for motor boat operators' licences who are at least sixteen years of age.

9. This Act comes into force on the day it receives Royal Assent. Commence-
ment

10. The short title of this Act is the *Motor Boat Operators Licensing Act, 1990*. Short title

Bill 38

An Act to amend the Planning Act, 1983



Mr. Callahan

1st Reading	December 19th, 1990
2nd Reading	
3rd Reading	
Royal Assent	

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTE

The purpose of the Bill is to enable the council of a municipality that rezones land in response to an application to require the applicant to appear before it if the applicant has not started developing the land in accordance with the rezoning within six months. If no satisfactory explanation for the failure to develop is offered, the council may revoke the rezoning or declare its intention to do so if no development has taken place within a further six months.

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983* is amended by adding the following section:

34b.—(1) If a council amends a zoning by-law to permit development on any land in response to an application for amendment, the council shall determine whether any development of the land has taken place during the twelve months following the day on which the amendment came into force.

(2) The council's determination shall be made not later than three months following the expiry of the twelve months referred to in subsection (1).

(3) The council shall provide twenty days notice of the meeting at which it will make its determination to the applicant for the amendment and to any other person having an interest in the land.

(4) The council shall provide the applicant and any other person given notice under subsection (3) the opportunity to explain why development has not started.

(5) If the council determines that no development or no substantial development has taken place, it may, after hearing any explanation offered under subsection (4), revoke the amendment.

(6) In this section, "development" means a use of land or an erection, location or use of buildings or structures or a change made in relation to buildings or structures that was prohibited by a zoning by-law before it was amended.

2. This Act comes into force on the day it receives Royal Assent.

3. The short title of this Act is the *Planning Amendment Act, 1990*.

Opportunity to explain

Council may revoke amendment

Definition

Commencement

Short title

Determination following amendment

Time of determination

Notice

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Bill 39

Private Member's Bill

Projet de loi 39

de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO
39 ELIZABETH II, 1990

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
39 ELIZABETH II, 1990

Bill 39

**An Act to amend the
Intervenor Funding
Project Act, 1988**

Mr. Chiarelli

1st Reading December 20th, 1990
2nd Reading
3rd Reading
Royal Assent

*This Bill has been reprinted to conform to the new
printing format*

Projet de loi 39

**Loi portant modification de la Loi de
1988 sur le projet d'aide financière aux
intervenants**

M. Chiarelli



1^{re} lecture 20 décembre 1990
2^e lecture
3^e lecture
sanction royale

*Le présent projet de loi a été réimprimé en fonction du
nouveau format d'impression*

EXPLANATORY NOTE

The purpose of the Bill is to add the Ontario Municipal Board as a board to which the Act applies. The reference to “a major financial beneficiary” in the definition of “proponent” is broadened to include other areas in addition to financial matters.

NOTE EXPLICATIVE

Le projet de loi a pour objet d'ajouter la Commission des affaires municipales de l'Ontario à la liste des commissions auxquelles la Loi s'applique. Le sens de «bénéficiaire financier majeur» dans la définition de «proposant» est étendu de façon à recouvrir d'autres considérations que les seules questions financières.

**An Act to amend the
Intervenor Funding
Project Act, 1988**

**Loi portant modification de la Loi de
1988 sur le projet d'aide financière
aux intervenants**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The definition of “board” in section 1 of the *Intervenor Funding Project Act, 1988* is repealed and the following substituted:

“board” means a joint board, the Ontario Energy Board, the Environmental Assessment Board or the Ontario Municipal Board. (“commission”)

(2) The definition of “proponent” in section 1 is repealed and the following substituted:

“proponent” means a party whose undertaking, in the opinion of a funding panel, is the subject-matter of the hearing or another party, individual or corporation, who, in the opinion of a funding panel, is potentially a major beneficiary of the decision of the board. (“proposant”)

2. This Act comes into force on the day it receives Royal Assent.

3. The short title of this Act is the *Intervenor Funding Project Amendment Act, 1990*.

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

1 (1) La définition de «commission» donnée à l'article 1 de la *Loi de 1988 sur le projet d'aide financière aux intervenants* est abrogée et remplacée par ce qui suit :

«commission» Une commission mixte, la Commission de l'énergie de l'Ontario, la Commission des évaluations environnementales ou la Commission des affaires municipales de l'Ontario. («board»)

(2) La définition de «proposant» donnée à l'article 1 est abrogée et remplacée par ce qui suit :

«proposant» Partie dont l'entreprise, de l'avis d'un comité d'aide financière, fait l'objet de l'audience, ou une autre partie, personne physique ou personne morale qui, de l'avis d'un comité d'aide financière, est potentiellement un bénéficiaire important de la décision de la commission. («proponent»)

2 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

3 Le titre abrégé de la présente loi est *Loi de 1990 modifiant la Loi sur le projet d'aide financière aux intervenants*.

Commence-
ment

Short title

Entrée en
vigueur

Titre abrégé

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Bill 40

An Act to amend the Mortgages Act

The Hon. H. Hampton
Attorney General



1st Reading December 20th, 1990
2nd Reading
3rd Reading
Royal Assent

This Bill has been reprinted to conform to the new printing format

EXPLANATORY NOTES

The general effect of the Bill is to make the provisions of the *Landlord and Tenant Act* that govern residential tenancies applicable to various situations where a mortgagee of residential premises has dealings with the tenant.

A person who becomes a mortgagee in possession of residential premises is deemed to be a landlord and is subject to the tenancy agreement and the provisions of the *Landlord and Tenant Act* that apply to residential premises. A person who is deemed to be a landlord must give notice to the tenant (*section 45*).

A mortgagee may only obtain possession of residential premises according to the applicable provisions of the *Landlord and Tenant Act*. A person exercising rights under a mortgage who gives notice of termination of a tenancy is deemed to be a landlord (*section 46*).

A tenant who receives notice from a mortgagee and in good faith pays rent to the mortgagee is released from the obligation to pay rent to anyone else (*section 47*).

After a mortgage has gone into default, a mortgagee is given certain rights. Mortgagors and tenants are required to co-operate with the mortgagee and a mortgagee may apply to a court for an order requiring compliance (*section 48*).

A mortgagee is prohibited from interfering with the supply of services to or the reasonable enjoyment of residential premises. A breach of this requirement is an offence (*section 49*).

A mortgagee who believes that a mortgagor has entered into a tenancy agreement in contemplation of or after a default under the mortgage with the object of prejudicing the mortgagee may apply to court to vary or set aside the tenancy agreement (*section 50*).

A mortgagee of a single family home that is subject to a tenancy agreement has the right to obtain possession on behalf of a purchaser who, on closing, would be entitled to obtain possession under the *Landlord and Tenant Act* (*section 51*). If the purchaser does not occupy the premises, the tenant has the right to reoccupy them or, if another tenant has occupied them, the original tenant may bring an action against the purchaser (*section 52*). A mortgagee may on reasonable notice show a single family home to prospective purchasers at reasonable times (*section 53*).

The Bill preserves any rights that a tenant might have at common law or in equity.

The Bill contains transitional provisions that apply to mortgagees who become mortgagees in possession of residential premises on or after the 26th day of January, 1990. Before the Bill receives Royal Assent, a mortgagee is required to give notice of possession according to the provisions of the *Landlord and Tenant Act*. This requirement does not apply to a residential premises that is a single family home until the 20th day of December, 1990.

The Bill provides that a tenant who has paid a security deposit that has not been applied to the last rental period ranks fifth in priority to receive funds raised when, on default, a property is sold under a power of sale.

An Act to amend the Mortgages Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 26 of the *Mortgages Act* is amended by striking out “and” in the ninth line, by adding “and” at the end of the eleventh line and by adding the following:

Fifthly, in payment to the tenants of the mortgagor of the security deposits paid under section 84 of the *Landlord and Tenant Act* where the security deposit was not applied in payment for the last rent period.

2. The Act is amended by adding the following sections:

PART V

MORTGAGEES IN POSSESSION OF RENTAL RESIDENTIAL PREMISES

Definitions

42. In this Part,

“landlord” has the same meaning as in section 1 of the *Landlord and Tenant Act*;

“mortgagee” includes a condominium corporation with a lien enforceable under subsection 32 (6) of the *Condominium Act*;

“residential premises” has the same meaning as in section 1 of the *Landlord and Tenant Act*;

“tenancy agreement” has the same meaning as in section 81 of the *Landlord and Tenant Act*;

“tenant” has the same meaning as in section 81 of the *Landlord and Tenant Act*.

Single family home

43.—(1) For purposes of this Part, a single family home is a residential premises that consists of a single dwelling unit or a primary dwelling unit and not more than two subsidiary dwelling units and that is not subject to a tenancy agreement when the mortgage is registered.

Duplexes or triplexes

(2) A residential premises that is a duplex or a triplex is not a single family home.

When number of units determined

(3) In deciding whether a residential premises qualifies as a single family home, the number of subsidiary units shall be the number that existed when the default under the mortgage occurred.

(4) For purposes of this section, “subsidiary dwelling unit” means,

Definition

(a) an apartment or a subsidiary residential premises, including a premises described in subclause 1 (c) (v) of the *Landlord and Tenant Act*; or

(b) a room or other subsidiary unit that is rented for residential purposes, including one that is rented to a member of the mortgagor’s family or to an employee of the mortgagor.

44.—(1) In the event of a conflict between this Part and any other provision of this Act or any other Act, this Part prevails unless the provision or the Act states that it is to prevail over this Part.

Application

(2) This Part applies despite any agreement to the contrary.

Idem

(3) This Part and section 26 apply to,

Idem

(a) tenancies of residential premises and tenancy agreements whether entered into before or after the date on which the *Mortgages Amendment Act, 1990* receives Royal Assent;

(b) mortgages, whether registered before or after the tenancy agreement was entered into, or the date on which the *Mortgages Amendment Act, 1990* receives Royal Assent.

3. The Act is further amended by adding the following sections:

45.—(1) A person who becomes the mortgagee in possession of mortgaged residential premises which are the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential premises by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.

Person deemed to be landlord

(2) A person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection (1).

Person ceases to be landlord

(3) A person who is deemed to be a landlord is subject to the tenancy agreement and to the provisions of the *Landlord and Tenant Act* which apply to residential premises.

Person deemed to be landlord

Person ceases to be landlord	(4) A person shall no longer be deemed to be the landlord under the tenancy agreement when the person ceases to be a mortgagee in possession.	ises by any of the acts described in subsection (1) or (2).	
Mortgagee's obligations continue	(5) Despite subsection (4), a person who is deemed to be a landlord under subsection (1) continues to be liable for the obligations of a landlord that were incurred while the person was deemed to be a landlord.	(4) In the circumstances described in subsection (1), the mortgagor shall provide the mortgagee with the information requested.	Obligations of mortgagor
Notice to tenants	(6) A person who is deemed to be a landlord shall serve notice to all tenants of the change in landlord.	(5) In the circumstances described in subsection (2), the mortgagor and the mortgagor's tenant shall provide the mortgagee with the information and documents requested and shall permit the mortgagee to enter the common areas of the premises.	Obligations of mortgagor and tenant
Idem	(7) The notice shall be in writing and shall provide the person's name and address.	(6) If a mortgagor or a mortgagor's tenant does not comply with subsection (4) or (5), the mortgagee may apply to the Ontario Court (General Division) for an order requiring compliance.	Application for compliance order
Idem	(8) The notice may be in the form prescribed by the regulations made under this Act.	49. —(1) No mortgagee or person acting on behalf of the mortgagee shall,	Mortgagee not to interfere
Possession	46. —(1) No person exercising rights under a mortgage may obtain possession of residential premises from the mortgagor's tenant except according to the provisions of the <i>Landlord and Tenant Act</i> which apply to residential tenancies.	(a) deliberately interfere with a reasonable supply of any service such as heat, fuel, electricity, gas, food or water to a residential premises whether or not it was the mortgagor's obligation to supply the service; or	
Person deemed to be landlord	(2) A person exercising rights under a mortgage who gives notice of termination of a tenancy shall be deemed to be a landlord under subsection 45 (1).	(b) substantially interfere with the reasonable enjoyment of the residential premises for all the usual purposes by the mortgagor's tenant or household with the intent of causing the mortgagor's tenant to give up possession of the residential premises or to refrain from asserting any rights under this Act, the tenancy agreement or the <i>Landlord and Tenant Act</i> .	
Payment of rent by tenant	47. On or after default under the mortgage, a tenant who in good faith pays rent to a mortgagee who first serves notice on the tenant is released from the obligation to pay the rent to any other person unless the mortgagee instructs otherwise or a court orders otherwise.	(2) Any person who contravenes or fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 in the case of an individual and \$25,000 in the case of a corporation.	Offence
Mortgagee's rights after default	48. —(1) Despite section 40, a mortgagee may at any time after the default under a mortgage on residential premises make inquiries of the mortgagor regarding the existence of any tenancy agreement and require the mortgagor to provide a list of tenants, if any.	50. —(1) The Ontario Court (General Division) may on application by the mortgagee vary or set aside a tenancy agreement, or any of its provisions, entered into by the mortgagor in contemplation of or after default under the mortgage with the object of,	Application to set aside tenancy
Idem	(2) Despite section 40, a mortgagee at any time after default under a mortgage on residential premises which are the subject of a tenancy agreement may,	(a) discouraging the mortgagee from taking possession of the residential premises on default; or	
	(a) enter into the common areas of the residential premises for the purpose of inspection;	(b) adversely affecting the value of the mortgagee's interest in the residential premises.	
	(b) demand production from the mortgagor or the mortgagor's tenant of a copy of the tenancy agreement if it is written; and	(2) In considering the application, the judge shall have regard to the interests of the tenant and the mortgagee.	Idem
	(c) demand from the mortgagor or the mortgagor's tenant any particulars of the tenancy agreement.	4. The Act is further amended by adding the following sections:	
Mortgagee not deemed mortgagee in possession	(3) The mortgagee does not become a mortgagee in possession of residential prem-		

Termination
of tenancy

51.—(1) A person described in subsection 45 (1) may obtain, under section 105 of the *Landlord and Tenant Act*, possession of a single family home that is the subject of a tenancy agreement in the circumstances described in this section.

Possession on
behalf of
purchaser

(2) When a person described in subsection 45 (1) has entered into a binding agreement for the purchase and sale of a single family home, the person may obtain possession of it on behalf of a purchaser who on closing would be entitled to give notice of termination under section 105 of the *Landlord and Tenant Act*.

Purchaser's
undertaking
in writing

(3) The person described in subsection 45 (1) shall obtain from the purchaser an undertaking in writing that states that the purchaser requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

Notice of
termination

(4) The notice of termination may be effective at least sixty days after it is given regardless of any fixed term of tenancy.

Idem

(5) In addition to the information required under section 99 of the *Landlord and Tenant Act*, the notice of termination shall include a copy of the undertaking supplied by the purchaser.

Form of
notice

(6) The form of notice of termination may be the same as the form used under section 110 of the *Landlord and Tenant Act* except that it shall be modified to indicate that the mortgagee is obtaining possession on behalf of a purchaser who requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

Order for
writ of
possession

(7) A person who has served notice may bring an application for an order for a writ of possession under section 113 of the *Landlord and Tenant Act* except that the application may be brought at any time after serving notice but in any event the writ will not be effective before the date of termination set out in the notice of termination.

Purchaser
exercises
rights of
mortgagee

(8) For the purpose of obtaining possession, a purchaser may exercise the rights of the person who served the notice of termination.

Tenant's
right to
reoccupy

52.—(1) If the purchaser does not within 180 days of the date of termination occupy the premises for his or her own use for a reasonable period, the tenant who was served notice under section 51 may bring an application to the Ontario Court (General Division) for an order directing that the tenant has the right to occupy the premises on the same terms that existed

immediately before the date of termination.

(2) An application by the tenant must be brought within 210 days after the date of termination set out in the notice of termination.

(3) If the tenant makes an application or is entitled to make an application, and the premises are occupied by another tenant, the original tenant may bring an action against the purchaser to recover any costs and damages incurred as the result of the tenant having to vacate the premises.

53. A person described in subsection 45 (1) may on reasonable notice show a single family home that is the subject of a tenancy agreement to a prospective purchaser at reasonable times.

5. The Act is further amended by adding the following sections:

54. Nothing in this Part diminishes any rights which a tenant of a mortgagor has at common law or in equity where the mortgagee is bound by the tenancy agreement.

55. All documents required to be served by this Part shall be served in accordance with section 123 of the *Landlord and Tenant Act*.

56. The Lieutenant Governor in Council may make regulations prescribing the form of notice described in subsection 45 (8).

6.—(1) This section applies to a person who becomes a mortgagee in possession of a mortgaged residential premises, after the 26th day of January, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

(2) No mortgagee may obtain possession of residential premises from the mortgagor's tenant on or after the 26th day of January, 1990 except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

(3) This section does not apply to single family homes as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

7.—(1) This section applies to a person who becomes a mortgagee in possession of a single family home, on or after the 20th day of December, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

(2) No mortgagee may obtain possession of a single family home from the mortgagor's tenant on or after the 20th day of December, 1990 except according to the provisions of the

Limitation

Tenant's
right to
recovery

Right to
show single
family home

Tenant's
rights
preserved

Service

Regulations

Transition:
general

Possession

Exception

Transition:
single family
home

Possession

Landlord and Tenant Act which apply to residential tenancies.

Idem

(3) Nothing in this section diminishes the right of any person to obtain possession of a single family home under section 51 of the *Mortgages Act*, as made by section 4 of this Act.

Single family
home

(4) For purposes of this section, a “single family home” is a single family home as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

8.—(1) This Act, except sections 2, 4, 6 and 7, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 2, 4 and 7 shall be deemed to have come into force on the 20th day of December, 1990. Idem

(3) Section 6 shall be deemed to have come into force on the 26th day of January, 1990. Idem

9. The short title of this Act is the *Mortgages Amendment Act, 1990*. Short title

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Bill 40

*(Chapter 6
Statutes of Ontario, 1991)*

An Act to amend the Mortgages Act

The Hon. H. Hampton
Attorney General

1st Reading	December 20th, 1990
2nd Reading	June 12th, 1991
3rd Reading	June 13th, 1991
Royal Assent	June 13th, 1991



An Act to amend the Mortgages Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 26 of the *Mortgages Act* is amended by striking out “and” in the ninth line, by adding “and” at the end of the eleventh line and by adding the following:

Fifthly, in payment to the tenants of the mortgagor of the security deposits paid under section 84 of the *Landlord and Tenant Act* where the security deposit was not applied in payment for the last rent period.

2. The Act is amended by adding the following sections:

PART V

MORTGAGEES IN POSSESSION OF RENTAL RESIDENTIAL PREMISES

Definitions

42. In this Part,
“landlord” has the same meaning as in section 1 of the *Landlord and Tenant Act*;
“mortgagee” includes a condominium corporation with a lien enforceable under subsection 32 (6) of the *Condominium Act*;
“residential premises” has the same meaning as in section 1 of the *Landlord and Tenant Act*;
“tenancy agreement” has the same meaning as in section 81 of the *Landlord and Tenant Act*;
“tenant” has the same meaning as in section 81 of the *Landlord and Tenant Act*.

Single family home

43.—(1) For purposes of this Part, a single family home is a residential premises that consists of a single dwelling unit or a primary dwelling unit and not more than two subsidiary dwelling units and that is not subject to a tenancy agreement when the mortgage is registered.

Duplexes or triplexes

(2) A residential premises that is a duplex or a triplex is not a single family home.

When number of units determined

(3) In deciding whether a residential premises qualifies as a single family home, the number of subsidiary units shall be the number that existed when the default under the mortgage occurred.

(4) For purposes of this section, “subsidiary dwelling unit” means,

Definition

- (a) an apartment or a subsidiary residential premises, including a premises described in subclause 1 (c) (v) of the *Landlord and Tenant Act*; or
- (b) a room or other subsidiary unit that is rented for residential purposes, including one that is rented to a member of the mortgagor’s family or to an employee of the mortgagor.

44.—(1) In the event of a conflict between this Part and any other provision of this Act or any other Act, this Part prevails unless the provision or the Act states that it is to prevail over this Part.

Application

(2) This Part applies despite any agreement to the contrary.

Idem

(3) This Part and section 26 apply to,

Idem

- (a) tenancies of residential premises and tenancy agreements whether entered into before or after the date on which the *Mortgages Amendment Act, 1991* receives Royal Assent;
- (b) mortgages, whether registered before or after the tenancy agreement was entered into, or the date on which the *Mortgages Amendment Act, 1991* receives Royal Assent.

3. The Act is further amended by adding the following sections:

45.—(1) A person who becomes the mortgagee in possession of mortgaged residential premises which are the subject of a tenancy agreement between the mortgagor and a tenant or who obtains title to the residential premises by foreclosure or power of sale shall be deemed to be the landlord under the tenancy agreement.

Person deemed to be landlord

(2) A person who is the landlord under the tenancy agreement ceases to be the landlord while another person is deemed to be a landlord under subsection (1).

Person ceases to be landlord

(3) A person who is deemed to be a landlord is subject to the tenancy agreement and to the provisions of the *Landlord and Tenant Act* which apply to residential premises.

Person deemed to be landlord

Person ceases to be landlord	(4) A person shall no longer be deemed to be the landlord under the tenancy agreement when the person ceases to be a mortgagee in possession.	ises by any of the acts described in subsection (1) or (2).	
Mortgagee's obligations continue	(5) Despite subsection (4), a person who is deemed to be a landlord under subsection (1) continues to be liable for the obligations of a landlord that were incurred while the person was deemed to be a landlord.	(4) In the circumstances described in subsection (1), the mortgagor shall provide the mortgagee with the information requested.	Obligations of mortgagor
Notice to tenants	(6) A person who is deemed to be a landlord shall serve notice to all tenants of the change in landlord.	(5) In the circumstances described in subsection (2), the mortgagor and the mortgagor's tenant shall provide the mortgagee with the information and documents requested and shall permit the mortgagee to enter the common areas of the premises.	Obligations of mortgagor and tenant
Idem	(7) The notice shall be in writing and shall provide the person's name and address.	(6) If a mortgagor or a mortgagor's tenant does not comply with subsection (4) or (5), the mortgagee may apply to the Ontario Court (General Division) for an order requiring compliance.	Application for compliance order
Idem	(8) The notice may be in the form prescribed by the regulations made under this Act.		
Possession	46. —(1) No person exercising rights under a mortgage may obtain possession of residential premises from the mortgagor's tenant except according to the provisions of the <i>Landlord and Tenant Act</i> which apply to residential tenancies.	49. —(1) No mortgagee or person acting on behalf of the mortgagee shall,	Mortgagee not to interfere
Person deemed to be landlord	(2) A person exercising rights under a mortgage who gives notice of termination of a tenancy shall be deemed to be a landlord under subsection 45 (1).	(a) deliberately interfere with a reasonable supply of any service such as heat, fuel, electricity, gas, food or water to a residential premises whether or not it was the mortgagor's obligation to supply the service; or	
Payment of rent by tenant	47. On or after default under the mortgage, a tenant who in good faith pays rent to a mortgagee who first serves notice on the tenant is released from the obligation to pay the rent to any other person unless the mortgagee instructs otherwise or a court orders otherwise.	(b) substantially interfere with the reasonable enjoyment of the residential premises for all the usual purposes by the mortgagor's tenant or household with the intent of causing the mortgagor's tenant to give up possession of the residential premises or to refrain from asserting any rights under this Act, the tenancy agreement or the <i>Landlord and Tenant Act</i> .	
Mortgagee's rights after default	48. —(1) Despite section 40, a mortgagee may at any time after the default under a mortgage on residential premises make inquiries of the mortgagor regarding the existence of any tenancy agreement and require the mortgagor to provide a list of tenants, if any.	(2) Any person who contravenes or fails to comply with this section is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 in the case of an individual and \$25,000 in the case of a corporation.	Offence
Idem	(2) Despite section 40, a mortgagee at any time after default under a mortgage on residential premises which are the subject of a tenancy agreement may,	50. —(1) The Ontario Court (General Division) may on application by the mortgagee vary or set aside a tenancy agreement, or any of its provisions, entered into by the mortgagor in contemplation of or after default under the mortgage with the object of,	Application to set aside tenancy
	(a) enter into the common areas of the residential premises for the purpose of inspection;	(a) discouraging the mortgagee from taking possession of the residential premises on default; or	
	(b) demand production from the mortgagor or the mortgagor's tenant of a copy of the tenancy agreement if it is written; and	(b) adversely affecting the value of the mortgagee's interest in the residential premises.	
	(c) demand from the mortgagor or the mortgagor's tenant any particulars of the tenancy agreement.	(2) In considering the application, the judge shall have regard to the interests of the tenant and the mortgagee.	Idem
Mortgagee not deemed mortgagee in possession	(3) The mortgagee does not become a mortgagee in possession of residential premises	4. The Act is further amended by adding the following sections:	

Termination
of tenancy

51.—(1) A person described in subsection 45 (1) may obtain, under section 105 of the *Landlord and Tenant Act*, possession of a single family home that is the subject of a tenancy agreement in the circumstances described in this section.

Possession on
behalf of
purchaser

(2) When a person described in subsection 45 (1) has entered into a binding agreement for the purchase and sale of a single family home, the person may obtain possession of it on behalf of a purchaser who on closing would be entitled to give notice of termination under section 105 of the *Landlord and Tenant Act*.

Purchaser's
undertaking
in writing

(3) The person described in subsection 45 (1) shall obtain from the purchaser an undertaking in writing that states that the purchaser requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

Notice of
termination

(4) The notice of termination may be effective at least sixty days after it is given regardless of any fixed term of tenancy.

Idem

(5) In addition to the information required under section 99 of the *Landlord and Tenant Act*, the notice of termination shall include a copy of the undertaking supplied by the purchaser.

Form of
notice

(6) The form of notice of termination may be the same as the form used under section 110 of the *Landlord and Tenant Act* except that it shall be modified to indicate that the mortgagee is obtaining possession on behalf of a purchaser who requires the single family home or any part of it occupied by a tenant for the purpose of occupation by himself or herself, his or her spouse or a child or parent of his or hers or of his or her spouse.

Order for
writ of
possession

(7) A person who has served notice may bring an application for an order for a writ of possession under section 113 of the *Landlord and Tenant Act* except that the application may be brought at any time after serving notice but in any event the writ will not be effective before the date of termination set out in the notice of termination.

Purchaser
exercises
rights of
mortgagee

(8) For the purpose of obtaining possession, a purchaser may exercise the rights of the person who served the notice of termination.

Tenant's
right to
reoccupy

52.—(1) If the purchaser does not within 180 days of the date of termination occupy the premises for his or her own use for a reasonable period, the tenant who was served notice under section 51 may bring an application to the Ontario Court (General Division) for an order directing that the tenant has the right to occupy the premises on the same terms that existed

immediately before the date of termination.

(2) An application by the tenant must be brought within 210 days after the date of termination set out in the notice of termination.

Limitation

(3) If the tenant makes an application or is entitled to make an application, and the premises are occupied by another tenant, the original tenant may bring an action against the purchaser to recover any costs and damages incurred as the result of the tenant having to vacate the premises.

Tenant's
right to
recovery

53. A person described in subsection 45 (1) may on reasonable notice show a single family home that is the subject of a tenancy agreement to a prospective purchaser at reasonable times.

Right to
show single
family home

5. The Act is further amended by adding the following sections:

54. Nothing in this Part diminishes any rights which a tenant of a mortgagor has at common law or in equity where the mortgagee is bound by the tenancy agreement.

Tenant's
rights
preserved

55. All documents required to be served by this Part shall be served in accordance with section 123 of the *Landlord and Tenant Act*.

Service

56. The Lieutenant Governor in Council may make regulations prescribing the form of notice described in subsection 45 (8).

Regulations

6.—(1) This section applies to a person who becomes a mortgagee in possession of a mortgaged residential premises, after the 26th day of January, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition:
general

(2) No mortgagee may obtain possession of residential premises from the mortgagor's tenant on or after the 26th day of January, 1990 except according to the provisions of the *Landlord and Tenant Act* which apply to residential tenancies.

Possession

(3) This section does not apply to single family homes as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

Exception

7.—(1) This section applies to a person who becomes a mortgagee in possession of a single family home, on or after the 20th day of December, 1990 and before the day this Act receives Royal Assent, that is the subject of a tenancy agreement between the mortgagor and a tenant.

Transition:
single family
home

(2) No mortgagee may obtain possession of a single family home from the mortgagor's tenant on or after the 20th day of December, 1990 except according to the provisions of the

Possession

Landlord and Tenant Act which apply to residential tenancies.

Idem

(3) Nothing in this section diminishes the right of any person to obtain possession of a single family home under section 51 of the *Mortgages Act*, as made by section 4 of this Act.

Single family home

(4) For purposes of this section, a "single family home" is a single family home as described in section 43 of the *Mortgages Act*, as made by section 2 of this Act.

8.—(1) This Act, except sections 2, 4, 6 and 7, comes into force on the day it receives Royal Assent. Commence-
ment

(2) Sections 2, 4 and 7 shall be deemed to have come into force on the 20th day of December, 1990. Idem

(3) Section 6 shall be deemed to have come into force on the 26th day of January, 1990. Idem

9. The short title of this Act is the *Mortgages Amendment Act, 1991*. Short title

Bill 41 Private Member's Bill Projet de loi 41 de député

1ST SESSION, 35TH LEGISLATURE, ONTARIO
40 ELIZABETH II, 1991

1^{re} SESSION, 35^e LÉGISLATURE, ONTARIO
40 ELIZABETH II, 1991

Bill 41

**An Act to amend the
Environmental Protection Act**

Mr. Chiarelli

1st Reading March 25th, 1991
2nd Reading
3rd Reading
Royal Assent

Projet de loi 41

**Loi portant modification de la Loi sur
la protection de l'environnement**

M. Chiarelli



1^{re} lecture 25 mars 1991
2^e lecture
3^e lecture
sanction royale

EXPLANATORY NOTE

The Bill would amend the *Environmental Protection Act* by giving municipalities and, in territory without municipal organization, Local Services Boards, the authority to make by-laws prohibiting the depositing of waste from outside the municipality or Board area at sites within the municipality or Board area. The by-laws could prohibit this either absolutely or unless certain conditions set out in the by-law were met. The by-laws would be effective even in the case of a waste disposal site in respect of which the owner or operator had previously obtained an approval from the Director under the *Environmental Protection Act*.

The Bill amends only the English version of the *Environmental Protection Act*. The Legislature has not yet adopted an official French language version of that Act.

NOTE EXPLICATIVE

Le projet de loi modifierait la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*») en donnant aux municipalités le pouvoir de prendre des règlements municipaux interdisant le dépôt, dans un lieu situé à l'intérieur de la municipalité, de déchets provenant d'en dehors de la municipalité. Ces règlements pourraient interdire le dépôt soit de façon absolue, soit sous réserve de certaines conditions qui y seraient énoncées. Ils s'appliqueraient même à un lieu d'élimination des déchets pour lequel le propriétaire ou l'exploitant aurait obtenu au préalable l'autorisation du directeur aux termes de la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*»).

Le projet de loi ne modifie que la version anglaise de cette Loi, la Législature n'ayant pas encore adopté de version française officielle.

An Act to amend the Environmental Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 35 of the *Environmental Protection Act*, as amended by the Statutes of Ontario, 1988, chapter 54, section 23, is further amended by adding the following subsection:

Exception

(7) This section does not apply to a by-law made under section 38a or 38b.

2. The Act is amended by adding the following sections:

Definitions

38a.—(1) In this section and section 38b,

“council of a municipality” includes a Local Services Board established under the *Local Services Boards Act*;

“municipality” means,

- (a) a local municipality, other than a local municipality within a municipality referred to in clause (b),
- (b) a metropolitan, regional or district municipality and the County of Oxford,
- (c) in territory without municipal organization, the geographical area within which a Local Services Board may exercise its jurisdiction.

By-law prohibiting imported waste

(2) The council of a municipality may make a by-law prohibiting the deposit of waste from outside the municipality on any land or land covered by water in the municipality.

Offence

(3) No person shall deposit waste contrary to a by-law made under subsection (2).

Idem

(4) Subsection (3) applies even if the deposit of waste is made at a waste disposal site in respect of which a certificate of approval or provisional certificate of approval has been issued, and even if the certificate was issued before the coming into force of this section.

Compensation

(5) A by-law referred to in subsection (2) may provide for compensation to be paid to

Loi portant modification de la Loi sur la protection de l'environnement

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

1 L'article 35 de la loi intitulée *Environmental Protection Act* («*Loi sur la protection de l'environnement*»), tel qu'il est modifié par l'article 23 du chapitre 54 des Lois de l'Ontario de 1988, est modifié de nouveau par adjonction du paragraphe suivant :

Exception

(7) This section does not apply to a by-law made under section 38a or 38b.

2 La Loi est modifiée par adjonction des articles suivants :

Definitions

38a.—(1) In this section and section 38b,

“council of a municipality” includes a Local Services Board established under the *Local Services Boards Act*;

“municipality” means,

- (a) a local municipality, other than a local municipality within a municipality referred to in clause (b),
- (b) a metropolitan, regional or district municipality and the County of Oxford,
- (c) in territory without municipal organization, the geographical area within which a Local Services Board may exercise its jurisdiction.

By-law prohibiting imported waste

(2) The council of a municipality may make a by-law prohibiting the deposit of waste from outside the municipality on any land or land covered by water in the municipality.

Offence

(3) No person shall deposit waste contrary to a by-law made under subsection (2).

Idem

(4) Subsection (3) applies even if the deposit of waste is made at a waste disposal site in respect of which a certificate of approval or provisional certificate of approval has been issued, and even if the certificate was issued before the coming into force of this section.

Compensation

(5) A by-law referred to in subsection (2) may provide for compensation to be paid to

the owner or operator of a waste disposal site affected by the by-law, but the compensation paid shall not exceed the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

By-law
imposing
conditions

38b.—(1) The council of a municipality may make a by-law prohibiting, except upon conditions specified in the by-law, the deposit of waste from outside the municipality at any waste disposal site in the municipality in respect of which a certificate of approval or provisional certificate of approval has been issued.

Offence

(2) No person shall deposit waste at a waste disposal site contrary to a by-law made under subsection (1).

Idem

(3) Subsection (2) applies even if the certificate of approval or provisional certificate of approval had been issued in respect of the site before the coming into force of this section.

Conditions
in by-law

(4) A by-law passed under subsection (1) may,

- (a) control the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (b) provide for a progressive reduction in the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (c) provide for the periodic review of matters pertaining to the waste disposal site;
- (d) require payment by the owner or operator of the waste disposal site of a fee for depositing waste from outside the municipality at the site; or
- (e) provide for compensation to be paid to the owner or operator of the waste disposal site for the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

3. Section 146 of the Act, as amended by the Statutes of Ontario, 1986, chapter 68, section 14, 1989, chapter 72, section 32 and 1990, chapter 18, section 14, is further amended by adding the following subsection:

Exception
not to apply

(2a) Subsection (2) does not apply in the case of a contravention of subsection 38a (3) or 38b (2).

the owner or operator of a waste disposal site affected by the by-law, but the compensation paid shall not exceed the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

By-law im-
posing condi-
tions

38b.—(1) The council of a municipality may make a by-law prohibiting, except upon conditions specified in the by-law, the deposit of waste from outside the municipality at any waste disposal site in the municipality in respect of which a certificate of approval or provisional certificate of approval has been issued.

Offence

(2) No person shall deposit waste at a waste disposal site contrary to a by-law made under subsection (1).

Idem

(3) Subsection (2) applies even if the certificate of approval or provisional certificate of approval had been issued in respect of the site before the coming into force of this section.

Conditions in
by-law

(4) A by-law passed under subsection (1) may,

- (a) control the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (b) provide for a progressive reduction in the amount of waste from outside the municipality that may be deposited at the waste disposal site;
- (c) provide for the periodic review of matters pertaining to the waste disposal site;
- (d) require payment by the owner or operator of the waste disposal site of a fee for depositing waste from outside the municipality at the site; or
- (e) provide for compensation to be paid to the owner or operator of the waste disposal site for the amount of profit that the owner or operator would reasonably have expected to earn but for the by-law during the five years immediately following its making.

3 L'article 146 de la Loi, tel qu'il est modifié par l'article 14 du chapitre 68 des Lois de l'Ontario de 1986, par l'article 32 du chapitre 72 des Lois de l'Ontario de 1989 et par l'article 14 du chapitre 18 des Lois de l'Ontario de 1990, est modifié de nouveau par adjonction du paragraphe suivant :

Exception not
to apply

(2a) Subsection (2) does not apply in the case of a contravention of subsection 38a (3) or 38b (2).

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

4 La présente loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en
vigueur

Short title

5. The short title of this Act is the *Environmental Protection Amendment Act, 1991*.

5 Le titre abrégé de la présente loi est *Loi de 1991 modifiant la Loi sur la protection de l'environnement*.

Titre abrégé



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